

By the Committees on Regulated Industries; Environmental Preservation and Conservation; and Senators Haridopolos, Constantine, Gaetz, Justice, Baker, Jones, Lynn, (Additional Introducers on Last Printed Page)

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1 A bill to be entitled
2 An act relating to the regulation of releases from
3 gambling vessels; creating s. 376.25, F.S.; providing a
4 short title; providing definitions; requiring gambling
5 vessels operating in coastal waters of the state to
6 register with the Department of Environmental Protection;
7 specifying the requirements for vessel registration;
8 requiring the owners of certain waterfront-landing
9 facilities to establish procedures concerning the release
10 of waste from gambling vessels; requiring that such owners
11 make available a waste-management service meeting
12 specified criteria; requiring that such owners establish
13 and collect certain fees; requiring that the department
14 maintain on its website an estimate of the minimum waste-
15 service demand of such waterfront-landing facilities;
16 providing criteria governing the estimate; requiring the
17 reporting of the release of certain substances into
18 coastal waters by gambling vessels; providing civil
19 penalties for violations; providing for the department to
20 establish and collect fees meeting specified criteria;
21 requiring the department to adopt rules; providing
22 exemptions and legislative intent; directing the
23 department to seek federal approval to amend Florida's
24 Coastal Zone Management Plan and, upon such approval, to
25 petition the Federal Government, via consistency review
26 under the federal Coastal Zone Management Act, to prohibit
27 certain releases from gambling vessels within the federal
28 territorial waters off the shores of this state; directing
29 the department to petition the Federal Government to

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30 prohibit certain releases from gambling vessels
31 independently of such approval; providing an effective
32 date.

33
34 Be It Enacted by the Legislature of the State of Florida:

35
36 Section 1. Section 376.25, Florida Statutes, is created to
37 read:

38 376.25 Gambling vessels; registration; required and
39 prohibited releases.--

40 (1) SHORT TITLE.--This section may be cited as the "Clean
41 Ocean Act."

42 (2) DEFINITIONS.--As used in this section, the term:

43 (a) "Berth" means a site in this state where a gambling
44 vessel moors to embark or disembark its passengers.

45 (b) "Coastline" has the same meaning as in the Submerged
46 Lands Act, 43 U.S.C. ss. 1301 et seq.

47 (c) "Coastal waters" means waters of the Atlantic Ocean
48 within 3 nautical miles of the coastline of the state and waters
49 of the Gulf of Mexico within 9 nautical miles of the coastline of
50 the state.

51 (d) "Department" means the Department of Environmental
52 Protection.

53 (e) "Gambling vessel" means a boat, ship, casino boat,
54 watercraft, or barge that is kept, operated, or maintained for
55 the purpose of gambling and that carries or operates gambling
56 devices for the use of its passengers or otherwise provides
57 facilities for the purpose of gambling, whether within or without
58 the jurisdiction of this state, and whether the vessel is at

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59 berth, lying to, or navigating, and the sailing, voyaging, or
60 cruising, or any segment of the sailing, voyaging, or cruising,
61 begins and ends within this state. The term does not include a
62 cruise ship as defined in 33 C.F.R. s. 101.105.

63 (f) "Hazardous waste" has the same meaning as in s.
64 403.703.

65 (g) "Oily bilge water" means liquid from the bilge of a
66 gambling vessel which contains used lubrication oils, oil sludge
67 and slops, fuel and oil sludge, used oil, used fuel and fuel
68 filters, and oily waste.

69 (h) "Release" means any discharge of liquids or solids,
70 however caused, from a gambling vessel and includes any escape,
71 disposal, spilling, leaking, pumping, emitting, or emptying.

72 (i) "Sewage" means human body waste and the waste from
73 toilets and other receptacles intended to receive or retain human
74 body waste and includes any material that has been collected or
75 treated through a marine sanitation device, as that term is used
76 in s. 312 of the Clean Water Act, 33 U.S.C. s. 1322, or that is a
77 byproduct of sewage treatment.

78 (j) "Treated blackwater" means that part of treated sewage
79 carried off by toilets, urinals, and kitchen drains.

80 (k) "Treated graywater" means that part of treated sewage
81 that is not blackwater, including waste from the bath, lavatory,
82 laundry, and sink, except kitchen sink waste.

83 (l) "Untreated blackwater" means that part of untreated
84 sewage carried off by toilets, urinals, and kitchen drains.

85 (m) "Untreated graywater" means that part of untreated
86 sewage that is not blackwater, including waste from bath,
87 lavatory, laundry, and sink, except kitchen sink waste.

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88 (n) "Waste" means sewage, oily bilge water, treated
89 graywater, untreated graywater, treated blackwater, untreated
90 blackwater, or hazardous waste.

91 (3) REGISTRATION REQUIREMENTS.--

92 (a) For each calendar year in which the owner or operator
93 of a gambling vessel intends to operate, or cause or allow to be
94 operated, a gambling vessel in coastal waters, the owner or
95 operator of the vessel shall register with the department. The
96 registration shall be completed before the gambling vessel enters
97 the coastal waters of the state in that calendar year. The
98 registration shall include the following information:

99 1. The vessel owner's business name and, if different, the
100 vessel operator's business name for each gambling vessel of the
101 owner or operator which is scheduled to be in coastal waters
102 during the calendar year.

103 2. The postal address, e-mail address, telephone number,
104 and facsimile number of the principal place of each business
105 identified under subparagraph 1.

106 3. The name and address of an agent for service of process
107 for each business identified under subparagraph 1. The owner and
108 operator shall continuously maintain a designated agent for
109 service of process whenever a gambling vessel of the owner or
110 operator is in coastal waters, and the agent must be an
111 individual resident of this state, a domestic corporation, or a
112 foreign corporation having a place of business in and authorized
113 to do business in this state.

114 4. The name or call sign, port of registry, berth location,
115 passenger and crew capacity, and weekly schedule of when
116 passengers are to be onboard for each of the owner's or

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117 operator's vessels scheduled to be in coastal waters during the
118 calendar year and after the date of registration. If passengers
119 embark or disembark a gambling vessel from another vessel while
120 the gambling vessel is in coastal waters but not moored to a
121 waterfront landing, a waterfront-landing facility in this state
122 where the other vessel moors while such passengers embark or
123 disembark for the gambling-vessel voyage must also be registered
124 as a berth location of the gambling vessel.

125 5. A description of all waste management systems, including
126 systems for the treatment, storage, or disposal of waste for each
127 gambling vessel identified under subparagraph 4., including, but
128 not limited to, system type, design, operation, location, and
129 capacity of all discharge pipes and valves, and the number and
130 capacity of all storage areas and holding tanks.

131 (b) Registration under paragraph (a) shall be executed
132 under oath by the owner or operator or designated representative
133 thereof.

134 (c) Upon request of the department, the registrant shall
135 submit registration information required under this subsection
136 electronically.

137 (d) The registrant shall promptly advise the department of
138 a change in the information provided by the registrant under
139 paragraph (a) during the period that a registration is valid.

140 (4) RELEASE PROCEDURES; DISPOSAL FEE.--

141 (a) The owner of each waterfront-landing facility that is
142 registered as a gambling vessel's berth location shall:

143 1. Establish procedures for the release of waste from
144 gambling vessels at the facility.

145 2. Make available a waste-management service that has the

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146 capability, at minimum, of handling and disposing of the
147 facility's minimum waste-service demand as calculated by the
148 department under paragraph (b).

149 3. Collect a fee not to exceed the costs associated with
150 making such waste-management service available from each gambling
151 vessel for which the waterfront-landing facility is a registered
152 berth.

153 (b) The department shall maintain on its website a current
154 estimate of the minimum waste-service demand for each waterfront-
155 landing facility that is a registered berth for a gambling
156 vessel. The minimum waste-service demand is the volume of waste
157 that is reasonably expected to be released at the facility over a
158 calendar year from gambling vessels that have a registered berth
159 at the facility. In estimating a facility's minimum waste-service
160 demand, the department shall consider, for each gambling vessel
161 that has a registered berth at the facility:

162 1. The registered capacity of the vessel's systems for
163 treating, holding, or disposing of waste; and

164 2. Other appropriate information, including, but not
165 limited to, other information provided during registration of the
166 vessel.

167 (5) NOTIFICATION OF RELEASES.--If a gambling vessel
168 releases any waste into coastal waters, the owner or operator
169 shall immediately, but no later than 24 hours after the release,
170 notify the department of the release. The owner or operator shall
171 include all of the following information in the notification:

172 (a) Date of the release.

173 (b) Time of the release.

174 (c) Location of the release.

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175 (d) Volume of the release.

176 (e) Source of the release.

177 (f) Remedial actions taken to prevent future releases.

178 (6) PENALTIES.--

179 (a) A person who violates this section is subject to a
180 civil penalty of not more than \$50,000 for each violation.

181 (b) The civil penalty imposed for each separate violation
182 of this section is separate from, and in addition to, any other
183 civil penalty imposed for a separate violation under this
184 subsection or any other law.

185 (c) In determining the amount of a civil penalty imposed
186 under this subsection, the department shall consider all relevant
187 circumstances, including, but not limited to, the nature,
188 circumstances, extent, and gravity of the violation. In making
189 this determination, the department shall consider the degree of
190 toxicity and volume of the release, the extent of harm caused by
191 the violation, whether the effects of the violation can be
192 reversed or mitigated, and, with respect to the defendant, the
193 ability to pay, the effect of a civil penalty on the ability to
194 continue in business, all voluntary cleanup efforts undertaken in
195 the past, the prior history of violations, the gravity of the
196 behavior, the economic benefit, if any, resulting from the
197 violation, and all other matters the department determines
198 justice may require.

199 (7) FEES.--The department shall establish and collect fees
200 that are adequate to cover the entire cost to the department of
201 developing and implementing its responsibilities, as required or
202 authorized under this section, which concern registration of
203 gambling vessels, tracking of releases, compliance with this

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204 section, and enforcement of this section.

205 (8) APPLICABILITY.--This section:

206 (a) Does not apply to releases made for the purpose of
207 securing the safety of the gambling vessel or saving life at sea
208 if all reasonable precautions have been taken for the purpose of
209 preventing or minimizing the release.

210 (b) Is intended to supplement and not conflict with federal
211 law.

212 (c) Does not apply to vessels of any branch of the United
213 States Armed Services.

214 (d) Does not require a person who holds a valid NPDES
215 permit governing releases from a gambling vessel to violate such
216 permit. As used in this paragraph, the term "NPDES permit" means
217 a permit issued by the United States Environmental Protection
218 Agency under s. 402 of the Clean Water Act, Pub. L. No. 92-500,
219 as amended, 33 U.S.C. ss. 1251 et seq., or by the department
220 under s. 403.0885.

221 (e) Does not apply to any gambling vessel that annually
222 verifies to the department that it operates a marine waste
223 treatment system that produces sterile, clear, and odorless reuse
224 water without generating solid waste and that eliminates the need
225 to pump out or dump wastewater.

226 (9) RULES.--The department shall adopt rules pursuant to
227 ss. 120.536(1) and 120.54 to administer this section.

228 (10) FEDERAL ACTIVITIES.--

229 (a) The department shall submit a request to United States
230 Secretary of Commerce proposing that Florida's Coastal Zone
231 Management Program be amended to include this section.

232 1. The request must be submitted by August 1, 2008, and

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233 must comply with the federal Coastal Zone Management Act and
234 implementing regulations, including, but not limited to, the
235 procedures in 16 U.S.C. s. 1455(c).

236 2. If the Secretary of Commerce approves the amendment of
237 Florida's Coastal Zone Management Program to include this
238 section, the department shall request the appropriate federal
239 agencies to prohibit the release of waste from any gambling
240 vessel in any waters which could affect the coastal waters of
241 this state in accordance with 16 U.S.C. s. 1456(c)(1).

242 (b) Independent of the process to amend Florida's Coastal
243 Zone Management Program under paragraph (a), the department shall
244 request the appropriate federal agencies to prohibit the release
245 of waste from any gambling vessel within the federal territorial
246 waters off the shores of this state.

247 Section 2. This act shall take effect July 1, 2008.

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250 ADDITIONAL INTRODUCERS

251 Posey and Dockery