

By Senator Constantine

22-00301-08

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1 A bill to be entitled

2 An act relating to regulation of releases from vessels;  
3 creating s. 376.25, F.S.; providing a short title;  
4 providing definitions; requiring that certain vessels  
5 operating in coastal waters register with the Department  
6 of Environmental Protection; specifying requirements for  
7 vessel registration; requiring that ports establish  
8 procedures for the release of certain substances by  
9 gambling vessels at port facilities; requiring that ports  
10 establish and collect certain fees; requiring that the  
11 owner or operator of a vessel notify the department of the  
12 release of certain substances into coastal waters;  
13 requiring that such notification contain certain  
14 information; providing civil penalties for violations;  
15 requiring the department to consider certain information  
16 when determining the amount of a penalty; providing  
17 exemptions; requiring that the department establish and  
18 collect fees to cover administrative costs; authorizing  
19 the department to adopt rules; requiring that the  
20 department petition the Federal Government to prohibit  
21 certain releases within the federal territorial waters off  
22 the shores of this state; providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. Section 376.25, Florida Statutes, is created to  
27 read:

28 376.25 Vessels; registration; required and prohibited  
29 releases.--

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

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

33       (a) "Biomedical waste" has the same meaning as in s.  
34 381.0098(2).

35       (b) "Coastal waters" means waters of the Atlantic Ocean or  
36 the Gulf of Mexico within the jurisdiction of this state.

37       (c) "Department" means the Department of Environmental  
38 Protection.

39       (d) "Hazardous waste" has the same meaning as in s.  
40 403.703.

41       (e) "Oily bilge water" means bilge water that contains used  
42 lubrication oils, oil sludge or slops, fuel or oil sludge, used  
43 oil, used fuel or fuel filters, or oily waste.

44       (f) "Port" means any place in the state into which vessels  
45 enter or depart for docking.

46       (g) "Release" means any discharge of liquids or solids,  
47 however caused, from a vessel and includes any escape, disposal,  
48 spilling, leaking, pumping, emitting, or emptying.

49       (h) "Scheduled releases" means the amount of treated and  
50 untreated sewage which has filled the registered capacity of a  
51 vessel's waste-treatment system and capacity of storage areas and  
52 holding tanks. In this condition it would be reasonably expected  
53 that a vessel would have a need to dispose of the content of its  
54 sewage system.

55       (i) "Sewage" means human body waste and the waste from  
56 toilets and other receptacles intended to receive or retain human  
57 body waste and includes any material that has been collected or  
58 treated through a marine sanitation device, as that term is used

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59 in s. 312 of the Clean Water Act, 33 U.S.C. s. 1322, or that is a  
60 byproduct of sewage treatment.

61 (j) "Treated blackwater" means that part of treated sewage  
62 which originates from toilets, urinals, and kitchen drains.

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

66 (l) "Untreated blackwater" means that part of untreated  
67 sewage which originates from toilets, urinals, and kitchen  
68 drains.

69 (m) "Untreated graywater" means that part of untreated  
70 sewage which is not blackwater, including waste from the bath,  
71 lavatory, laundry, and sink, except kitchen sink waste.

72 (n) "Vessel" means any craft used as a means of  
73 transportation on water which routinely carries or is certified  
74 to carry more than 100 passengers for a period of more than 2  
75 continuous hours in waters outside the jurisdiction of this  
76 state, whether the vessel is anchored, berthed, lying to, or  
77 navigating if the sailing, voyaging, or cruising, or any segment  
78 of the sailing, voyaging, or cruising, begins and ends within  
79 this state. The term does not include a cruise ship as defined in  
80 33 C.F.R. s. 101.105.

81 (3) REGISTRATION REQUIREMENTS.--

82 (a) For each calendar year in which the owner or operator  
83 of a vessel intends to operate, or cause or allow to be operated,  
84 a vessel in coastal waters, the owner or operator of the vessel  
85 shall register with the department. The registration must be  
86 completed before the vessel of the owner or operator enters the  
87 marine waters of the state in that calendar year. The

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88 registration shall include the following information:

89 1. The vessel owner's business name and, if different, the  
90 vessel operator's business name for each vessel of the owner or  
91 operator which is reasonably expected to be in coastal waters  
92 during the calendar year.

93 2. The postal address, e-mail address, telephone number,  
94 and facsimile number of the principal place of each business  
95 identified in subparagraph 1.

96 3. The name and address of an agent for service of process  
97 for each business identified under subparagraph 1. The owner and  
98 operator shall continuously maintain a designated agent for  
99 service of process whenever a vessel of the owner or operator is  
100 in coastal waters, and the agent must be an individual resident  
101 of this state, a domestic corporation, or a foreign corporation  
102 having a place of business in and authorized to do business in  
103 this state.

104 4. The name or call sign, port of registry, and passenger  
105 and crew capacity of each of the owner's or operator's vessels  
106 scheduled to call upon a port in this state or otherwise to be in  
107 coastal waters of this state during the calendar year and after  
108 the date of registration.

109 5. A description of all waste-treatment systems of each  
110 vessel identified under subparagraph 4., including system type,  
111 design, operation, location of all discharge pipes and valves,  
112 and the number and capacity of all storage areas and holding  
113 tanks.

114 (b) Registration under paragraph (a) shall be executed  
115 under oath by the owner or operator or designated representative  
116 thereof.

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117 (c) Upon request of the department, the registrant shall  
118 submit registration information required under this subsection  
119 electronically.

120 (4) SCHEDULED RELEASES.--

121 (a) Each port shall establish procedures, including a  
122 process for verification of the contents released, for the  
123 release of sewage, oily bilge water, untreated or treated  
124 graywater, untreated or treated blackwater, hazardous waste, and  
125 biomedical waste from vessels at port facilities.

126 (b) Each port shall establish and collect a fee not to  
127 exceed the costs associated with disposal of the scheduled  
128 releases from vessels.

129 (5) NOTIFICATION OF RELEASES.--If a vessel releases any  
130 sewage, oily bilge water, untreated or treated graywater,  
131 untreated or treated blackwater, hazardous waste, or biomedical  
132 waste into coastal waters, the owner or operator shall  
133 immediately, but no later than 24 hours after the release, notify  
134 the department of the release. The owner or operator shall  
135 include all of the following information in the notification:

136 (a) Date of the release.

137 (b) Time of the release.

138 (c) Location of the release.

139 (d) Volume of the release.

140 (e) Source of the release.

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

142 (6) PENALTIES.--

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

145 (b) The civil penalty imposed for each separate violation

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146 of this section is separate from, and in addition to, any other  
147 civil penalty imposed for a separate violation under this  
148 subsection or any other provision of law.

149 (c) In determining the amount of a civil penalty imposed  
150 under this subsection, the department shall take into  
151 consideration all relevant circumstances, including, but not  
152 limited to, the nature, circumstances, extent, and gravity of the  
153 violation. In making this determination, the department shall  
154 consider the degree of toxicity and volume of the release, the  
155 extent of harm caused by the violation, whether the effects of  
156 the violation can be reversed or mitigated, and, with respect to  
157 the defendant, the ability to pay, the effect of a civil penalty  
158 on the ability to continue in business, all voluntary cleanup  
159 efforts undertaken in the past, the prior history of violations,  
160 the gravity of the behavior, the economic benefit, if any,  
161 resulting from the violation, and all other matters that the  
162 department determines justice may require.

163 (7) APPLICABILITY.--This section does not apply to releases  
164 made for the purpose of securing the safety of the vessel or  
165 saving life at sea if all reasonable precautions have been taken  
166 for the purpose of preventing or minimizing the release.

167 (8) DEPARTMENT FEES.--The department shall establish and  
168 collect fees to cover the entire cost to the department of  
169 developing and implementing the vessel registration, release  
170 tracking, and compliance and enforcement responsibilities  
171 required or authorized under this section.

172 (9) RULES.--The department may adopt rules pursuant to ss.  
173 120.536(1) and 120.54 to administer this section.

174 Section 2. The Department of Environmental Protection shall

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175 request the appropriate federal agencies to prohibit the release  
176 of all sewage, oily bilge water, untreated or treated graywater,  
177 untreated or treated blackwater, hazardous waste, or biomedical  
178 waste from any vessel within the federal territorial waters off  
179 the shores of this state.

180 Section 3. This act shall take effect July 1, 2008.