

HOUSE BILL 2966

By Faulkner

AN ACT to amend Tennessee Code Annotated, Title 68;
Title 69 and Title 70, relative to marine sanitation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 69, Chapter 9, Part 1, is amended by adding the following as a new section:

§ 69-9-103

(a) As used in this section:

(1) "Agency" means the Tennessee wildlife resources agency;

(2) "Marina" means a dock or basin providing moorings for motorboats and offering supply, repair, or other services for remuneration;

(3) "Marine sanitation device" means equipment that is identified by the United States coast guard as meeting the standards of the United States environmental protection agency to eliminate the discharge of untreated sewage from vessels and is a device that receives, treats retains, or discharges sewage;

(4) "Motorboat" means any vessel operated upon water and which is propelled by sail or machinery, whether or not the machinery is the principal source of propulsion, but shall not include vessel which has a valid marine document issued by the United States customs service of the United States government or any federal agency successor thereto;

(5) "Operate" means to navigate or otherwise use a motorboat or a vessel;

(6) "Operator" means a person who is controlling the speed and direction of a vessel or a person who is in direct physical control of a vessel;

(7)

(A) "Owner" means a person, other than a lien holder, having the property in or title to a motorboat; and

(B) "Owner" includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment of performance of an obligation, but "owner" excludes a lessee under a lease not intended as security;

(8) "Person" means an individual, partnership, firm, corporation, association, or other unity;

(9) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation; and

(10) "Waters of this state" means any public waters within the territorial limits of the state of Tennessee. However, waters that are confined within a pond, tank, or lake, situated entirely on the premises of single owner and that, except under abnormal flood conditions, are in no way connected by water or with any other flowing stream or body of water, or with any other body of water not situated on the premises of the owner, are declared to be privately owned waters and shall not be construed to be waters of the state.

(b)

(1)

(A) It shall be the duty of every sheriff, deputy sheriff, highway patrol officer, and enforcement officer of the Tennessee wildlife resources agency to enforce this section.

(B) Certified law enforcement officers of the department of environment and conservation and municipal police officers may enforce this section.

(2) In the exercise of enforcing this section, the officers referred to in subdivision (b)(1) shall have the authority to stop and board any vessel subject to this section and to investigate an accident or violation involving vessels subject to this section.

(3) Upon investigation, the officers may direct the operator of any vessel in violation of this section to return to the dock where the voyage originated or to the nearest dock appropriate.

(c) Jurisdiction to try offenses under this section shall be in the courts of the county where the person owning or operating the boat resides or in the county where the offense is committed or in any county through or by which the boat is being run or operated on the waters of this state at the time of the violation of this section.

(d) Owners and operators of commercial boating facilities, docks, and marinas shall cooperate with all applicable state and federal agencies and the department of environment and conservation to ensure that the disposal of marine sewage is consistent with state and federal law.

(e) When accepting new boat arrivals, owners and operators of commercial boating facilities, docks, and marinas shall inform vessel owners and operators of the requirements of state and federal law regarding the proper disposal of marine sewage.

(f)

(1) Except to the extent permitted by federal law and in order to protect the health and safety of persons using the waters of this state, it is unlawful for

any person to operate or use a vessel capable of discharging untreated sewage from a vessel into the waters of this state.

(2) Raw sewage shall not be discharged from any vessel into waters of this state.

(g)

(1) On waters of this state, vessels that have toilet facilities permanently installed shall be equipped with a United States coast guard certified marine sanitation device designed to receive, retain, treat, or discharge sewage in accordance with federal requirements.

(2) This section applies only to vessels equipped with permanently installed toilet facilities and does not require the installation of this type of facility in vessels not already so equipped.

(3) The use of portable toilets that can be emptied ashore in regular sewage treatment systems is entirely within the spirit and letter of this section and is encouraged.

(h)

(1) All waste from Type III marine sanitation devices shall be disposed in approved sewage pump out facilities.

(2) All waste from portable toilets shall be disposed in approved waste reception or sewage pump out facilities.

(i)

(1) Except to the extent permitted by federal law, it shall be unlawful for any person to discharge any treated or untreated sewage into any waters of this state lawfully designated as no discharge.

(2) A no discharge designation shall be based on the criteria established by the United States environmental protection agency for determining no discharge waters regarding marine sanitation devices and shall include federal impoundments owned or managed by the United States army corps of engineers.

(3) Any such discharge of sewage from a vessel shall be prima facie evidence that the discharge was done by the operator, or owner, if the operator cannot be determined, of the vessel.

(4) A no discharge type Type III marine sanitation device or a Type I or II marine sanitation device secured against discharge is required in vessels operated on no discharge waters.

(5) A vessel equipped with a flow through Type I or II marine sanitation device that has been secured by a locked shut off valve, broken line, or blanked off hull opening to prevent overboard discharge shall be considered equipped with a no discharge type marine sanitation device.

(j) Any person who violates this section or any rule promulgated under this section shall be guilty of a class C misdemeanor and subject to a fine not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000) or imprisonment not to exceed three (3) months or both.

(k)

(1) Any person who violates this section or any rule promulgated under this section may be assessed an administrative civil penalty not to exceed one thousand dollars (\$1,000) per violation.

(2) The owner and operator of any vessel shall be jointly and severally liable for the civil penalty imposed under this section.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.