

Committee Substitute for Committee Substitute for
Senate Bill Nos. 1094 and 326

An act relating to the regulation of releases from gambling vessels; creating s. 376.25, F.S.; providing a short title; providing definitions; requiring gambling vessels operating in coastal waters of the state to register with the Department of Environmental Protection; specifying the requirements for vessel registration; requiring the owners of certain waterfront-landing facilities to establish procedures concerning the release of waste from gambling vessels; requiring that such owners make available a waste-management service meeting specified criteria; requiring that such owners establish and collect certain fees; requiring that the department maintain on its website an estimate of the minimum waste-service demand of such waterfront-landing facilities; providing criteria governing the estimate; requiring the reporting of the release of certain substances into coastal waters by gambling vessels; providing civil penalties for violations; providing for the department to establish and collect fees meeting specified criteria; requiring the department to adopt rules; providing exemptions and legislative intent; directing the department to seek federal approval to amend Florida's Coastal Zone Management Plan and, upon such approval, to petition the Federal Government, via consistency review under the federal Coastal Zone Management Act, to prohibit certain releases from gambling vessels within the federal territorial waters off the shores of this state; directing the department to petition the Federal Government to prohibit certain releases from gambling vessels independently of such approval; providing an effective date.

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

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

376.25 Gambling vessels; registration; required and prohibited releases.—

(1) SHORT TITLE.—This section may be cited as the “Clean Ocean Act.”

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

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

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

(c) “Coastal waters” means waters of the Atlantic Ocean within 3 nautical miles of the coastline of the state and waters of the Gulf of Mexico within 9 nautical miles of the coastline of the state.

(d) “Department” means the Department of Environmental Protection.

(e) “Gambling vessel” means a boat, ship, casino boat, watercraft, or barge that is kept, operated, or maintained for the purpose of gambling and that carries or operates gambling devices for the use of its passengers or otherwise provides facilities for the purpose of gambling, whether within or without the jurisdiction of this state, and whether the vessel is at berth, lying to, or navigating, and the sailing, voyaging, or cruising, or any segment of the sailing, voyaging, or cruising, begins and ends within this state. The term does not include a cruise ship as defined in 33 C.F.R. s. 101.105.

(f) “Hazardous waste” has the same meaning as in s. 403.703.

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

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

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

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

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

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

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

(n) “Waste” means sewage, oily bilge water, treated graywater, untreated graywater, treated blackwater, untreated blackwater, or hazardous waste.

(3) REGISTRATION REQUIREMENTS.—

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

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

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

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

4. The name or call sign, port of registry, berth location, passenger and crew capacity, and weekly schedule of when passengers are to be onboard for each of the owner's or operator's vessels scheduled to be in coastal waters during the calendar year and after the date of registration. If passengers embark or disembark a gambling vessel from another vessel while the gambling vessel is in coastal waters but not moored to a waterfront landing, a waterfront-landing facility in this state where the other vessel moors while such passengers embark or disembark for the gambling-vessel voyage must also be registered as a berth location of the gambling vessel.

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

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

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

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

(4) RELEASE PROCEDURES; DISPOSAL FEE.—

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

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

2. Make available a waste-management service that has the capability, at minimum, of handling and disposing of the facility's minimum waste-service demand as calculated by the department under paragraph (b).

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

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

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

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

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

(a) Date of the release.

(b) Time of the release.

(c) Location of the release.

(d) Volume of the release.

(e) Source of the release.

(f) Remedial actions taken to prevent future releases.

(6) PENALTIES.—

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

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

(c) In determining the amount of a civil penalty imposed under this subsection, the department shall consider all relevant circumstances, including, but not limited to, the nature, circumstances, extent, and gravity of the violation. In making this determination, the department shall consider the degree of toxicity and volume of the release, the extent of harm caused by the violation, whether the effects of the violation can be reversed or mitigated, and, with respect to the defendant, the ability to pay, the effect of a civil penalty on the ability to continue in business, all voluntary cleanup

efforts undertaken in the past, the prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and all other matters the department determines justice may require.

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

(8) APPLICABILITY.—This section:

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

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

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

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

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

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

(10) FEDERAL ACTIVITIES.—

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

1. The request must be submitted by August 1, 2008, and must comply with the federal Coastal Zone Management Act and implementing regulations, including, but not limited to, the procedures in 16 U.S.C. s. 1455(c).

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

(b) Independent of the process to amend Florida’s Coastal Zone Management Program under paragraph (a), the department shall request the appro-

priate federal agencies to prohibit the release of waste from any gambling vessel within the federal territorial waters off the shores of this state.

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

Approved by the Governor June 30, 2008.

Filed in Office Secretary of State June 30, 2008.