

Act No. 114
Public Acts of 2001
Approved by the Governor
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Senators Sikkema, Johnson, Stille, Bennett, Emmons, Gast, Hammerstrom, Gougeon, Schuette, North, Steil, Van Regenmorter, Shugars, McManus and Bullard

ENROLLED SENATE BILL No. 152

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 3101 (MCL 324.3101), as amended by 1997 PA 29, and by adding section 3103a.

The People of the State of Michigan enact:

Sec. 3101. As used in this part:

(a) "Aquatic nuisance species" means a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural, or recreational activities dependent on such waters.

(b) "Ballast water" means water and associated solids taken on board a vessel to control or maintain trim, draft, stability, or stresses on the vessel, without regard to the manner in which it is carried.

(c) "Ballast water treatment method" means a method of treating ballast water and sediments to remove or destroy living biological organisms through 1 or more of the following:

(i) Filtration.

(ii) The application of biocides or ultraviolet light.

(iii) Thermal methods.

(iv) Other treatment techniques approved by the department.

(d) "Department" means the department of environmental quality.

(e) "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the United States department of labor, bureau of labor statistics.

(f) "Great Lakes" means the Great Lakes and their connecting waters, including lake St. Clair.

(g) "Local unit" means a county, city, village, or township or an agency or instrumentality of any of these entities.

(h) "Municipality" means this state, a county, city, village, or township, or an agency or instrumentality of any of these entities.

- (i) “Nonocean-going vessel” means a vessel that is not an ocean-going vessel.
- (j) “Ocean-going vessel” means a vessel that operates on the Great Lakes or the St. Lawrence waterway after operating in waters outside of the Great Lakes or the St. Lawrence waterway.
- (k) “Sediments” means any matter settled out of ballast water within a vessel.
- (l) “Sewage sludge” means sewage sludge generated in the treatment of domestic sewage, other than only septage or industrial waste.
- (m) “Sewage sludge derivative” means a product for land application derived from sewage sludge that does not include solid waste or other waste regulated under this act.
- (n) “Sewage sludge generator” means a person who generates sewage sludge that is applied to land.
- (o) “Sewage sludge distributor” means a person who applies, markets, or distributes, except at retail, a sewage sludge derivative.
- (p) “St. Lawrence waterway” means the St. Lawrence river, the St. Lawrence seaway, and the gulf of St. Lawrence.
- (q) “Waters of the state” means groundwaters, lakes, rivers, and streams and all other watercourses and waters, including the Great Lakes, within the jurisdiction of this state.

Sec. 3103a. (1) The legislature finds both of the following:

(a) It is a goal of this state to prevent the introduction of and minimize the spread of aquatic nuisance species within the Great Lakes.

(b) That, to achieve the goal stated in subdivision (a), this state shall cooperate with the United States and Canadian authorities, other states and provinces, and the maritime industry.

(2) By March 1, 2002, the department shall do all of the following:

(a) Determine whether the ballast water management practices that were proposed by the shipping federation of Canada to the department on June 7, 2000 are being complied with by all ocean-going vessels operating on the Great Lakes and the St. Lawrence waterway. Upon request by the department, the owner or operator of an ocean-going vessel shall provide, on a form developed by the department and the shipping federation of Canada, confirmation of whether or not the vessel is complying with the ballast water management practices described in this subdivision.

(b) Determine whether the ballast water management practices that were proposed jointly by the lake carriers’ association and the Canadian shipowners’ association to the department on January 26, 2001 are being complied with by all nonocean-going vessels operating on the Great Lakes and the St. Lawrence waterway. Upon request by the department, the owner or operator of a nonocean-going vessel shall provide, on a form developed by the department and the lake carriers’ association and the Canadian shipowners’ association, confirmation of whether or not the vessel is complying with the ballast water management practices described in this subdivision. For a nonocean-going vessel that is a ferry used to transport motor vehicles across Lake Michigan, if the configuration of the vessel would prohibit compliance with 1 or more of the ballast water management practices described in this section, the department shall establish alternative ballast water management practices for the vessel and shall determine whether those practices are being complied with.

(c) Determine whether either or both of the ballast water management practices described in subdivisions (a) and (b) have been made conditions of passage on the St. Lawrence seaway by the St. Lawrence seaway management corporation and the Saint Lawrence seaway development corporation.

(d) Determine the following:

(i) Whether 1 or more ballast water treatment methods, which protect the safety of the vessel, its crew, and its passengers, could be used by ocean-going vessels to prevent the introduction of aquatic nuisance species into the Great Lakes.

(ii) A time period after which 1 or more ballast water treatment methods identified under subparagraph (i) could be used by all ocean-going vessels operating on the Great Lakes.

(iii) If the department determines under subparagraph (i) that a ballast water treatment method is not available, the actions needed to be taken for 1 or more ballast water treatment methods that would meet the requirements of subparagraph (i) to be developed, tested, and made available to vessel owners and operators and a time period after which the ballast water treatment method or methods could be used by all ocean-going vessels operating on the Great Lakes. Subsequently, if at any time the department determines that 1 or more ballast water treatment methods that meet the requirements of subparagraph (i) could be used by ocean-going vessels operating on the Great Lakes, the department shall determine a date after which the ballast water treatment method or methods could be used by all ocean-going vessels operating on the Great Lakes.

(e) Submit to the governor and the standing committees of the legislature with jurisdiction primarily over issues pertaining to natural resources and the environment a letter of determination that outlines the determinations made by the department under this subsection.

(3) By March 1, 2003, the department shall do all of the following:

(a) Determine whether all oceangoing vessels that are operating on the Great Lakes are using a ballast water treatment method, identified by the department under subsection (2)(d)(i) or (iii), to prevent the introduction of aquatic nuisance species into the Great Lakes. Upon request by the department, the owner or operator of an oceangoing vessel shall provide, on a form developed by the department and the shipping federation of Canada, confirmation of whether or not the vessel is using a ballast water treatment method identified by the department under subsection (2)(d)(i) or (iii). If the department determines that all oceangoing vessels that are operating on the Great Lakes are not using a ballast water treatment method by the dates identified in subsection (2)(d)(i) or (iii), the department shall determine what the reasons are for not doing so.

(b) Determine whether the use of a ballast water treatment method has been made a condition of passage on the St. Lawrence seaway by the St. Lawrence seaway management corporation and the Saint Lawrence seaway development corporation.

(c) Submit to the governor and the standing committees of the legislature with jurisdiction primarily over issues pertaining to natural resources and the environment a letter of determination that outlines the determinations made by the department under this subsection.

(4) The department shall do all of the following:

(a) By March 1, 2002, compile and maintain a list of all oceangoing vessels and nonoceangoing vessels that it determines have complied with the ballast water management practices described in subsection (2)(a) or (b), as appropriate, during the previous 12 months. This list shall be continually updated and maintained on the department's website.

(b) By March 1, 2003, if the department has determined under subsection (2)(d)(i), or if the department subsequently determines under subsection (2)(d)(iii), that 1 or more ballast water treatment methods could be used by oceangoing vessels to prevent the introduction of aquatic nuisance species into the Great Lakes, compile and maintain a list of all oceangoing vessels that, after the date specified in subsection (2)(d)(ii) or the date identified by the department under subsection (2)(d)(iii), as appropriate, have been using 1 of these ballast water treatment methods during the previous 12 months.

(c) Continually update and post the lists provided for in subdivisions (a) and (b) on the department's website.

(d) Annually distribute a copy of the lists prepared under subdivisions (a) and (b) to persons in the state who have contracts with oceangoing or nonoceangoing vessel operators for the transportation of cargo.

(e) Provide to the governor and the standing committees of the legislature with jurisdiction primarily over issues pertaining to natural resources and the environment copies of the initial lists prepared under subdivisions (a) and (b) and the annual list distributed under subdivision (d).

(5) The owner or operator of an oceangoing vessel or a nonoceangoing vessel that is not on an applicable list prepared under subsection (4) and any persons in the state who have contracts for the transportation of cargo with an oceangoing or nonoceangoing vessel operator that is not on an applicable list prepared under subsection (4) are not eligible for a new grant, loan, or award administered by the department.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Jay E. Randall

Clerk of the House of Representatives.

Approved

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Governor.