

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 897 Regulation of Releases from Gambling Vessels
SPONSOR(S): Environment & Natural Resources Council; Mayfield
TIED BILLS: **IDEN./SIM. BILLS:** SB 1094

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Environmental Protection</u>	<u>7 Y, 0 N</u>	<u>Kliner</u>	<u>Kliner</u>
2) <u>Environment & Natural Resources Council</u>	<u>14 Y, 0 N, As CS</u>	<u>Kliner / Perkins</u>	<u>Dixon / Hamby</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u>Davila</u>	<u>Hansen</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

CS/HB 897 provides definitions and requires gambling boat owner/operators to register their vessels with the Florida Department of Environmental Protection (DEP). Registration includes the vessel's name or call sign, its port of registry, berth location, passenger and crew capacity, and a weekly schedule of the vessel's operation as a gambling vessel in coastal waters for the calendar year. Finally, the registration must describe the waste treatment system of each registered vessel by type, design, operation and location of all discharge pipes, including the capacity of the holding tank(s). The bill requires an owner/operator of a gambling vessel that releases any waste into coastal waters to report that release to the DEP within 24 hours of the release. A violation of the act subjects the actor to a civil penalty of not more than \$50,000 for each violation.

The DEP is required to estimate the minimum volume of waste that is reasonably expected to be released from registered gambling vessels based upon the information provided by the registrants and to post the information on the department's website. The DEP is required to establish and to collect fees that are adequate to cover the entire cost to the DEP for developing the database for vessel registration, for tracking releases, for compliance with the Act, and for enforcement. Additionally, the bill provides rulemaking authority to the DEP and requires the DEP to submit a request by August 1, 2008, to the U.S. Secretary of Commerce to propose that the Florida Coastal Zone Management Program be amended to include this Act. If the Secretary of Commerce approves the amendment of the Florida Coastal Zone Management Act, the DEP must request the appropriate federal authorities to prohibit the release of waste from gambling vessels in any waters that could affect the coastal waters of the state. The bill provides a list of vessels and activities to which this Act does not apply.

The bill requires an owner/operator of a gambling vessel berth location to establish procedures for the release of waste from gambling vessels and to make available a waste-management service to handle and dispose of the vessel's waste, based upon the department's calculations.

The DEP estimates the fiscal impact associated with this bill is approximately \$145,000 which will be recovered in fees levied on the gambling vessel industry. The owner (port, local government, private owner, etc.) of each waterfront-landing facility is required to collect a fee from the gambling vessel not to exceed the costs associated with making waste-management service available to each gambling vessel. A gambling vessel may need retrofitting to accommodate the necessary apparatus for land-side releases of waste. A retrofit may exceed a cost of \$200,000.

CS/HB 897 takes effect on July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited Government: The bill requires DEP to register gambling vessels and to respond to discharges and to assess damages, if any, resulting from discharges from gambling vessels. The DEP is required to estimate the minimum volume of waste that is reasonably expected to be released from registered gambling vessels based upon the information provided by the registrants and to post the information on the department's website.

Ensure Lower Taxes: The bill requires an owner/operator of a gambling vessel berth location (which could be a governmental entity, or a private business) to establish and collect a fee not to exceed the actual costs associated with collection and disposal of the releases from gambling vessels. In addition, the DEP is required to establish and to collect fees that are adequate to cover the entire cost to the DEP for developing the database for vessel registration, for tracking releases, for compliance with the Act, and for enforcement.

Promote Personal Responsibility: The bill requires DEP to register gambling vessels and to respond to discharges and to assess damages, if any, resulting from discharges from gambling vessels. The bill requires a gambling vessel berth location (as defined) to establish and collect a fee not to exceed the costs associated with disposal of the releases from gambling vessels. The bill requires owners or operators of gambling vessels to report releases into coastal waters within 24 hours to DEP, and provides for civil penalties for violations of the bill's provisions.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Each day thousands of vessels use our waterways for transportation, commercial and recreational activities. Protecting our environment includes the proper handling of waste and wastewater management practices onboard these vessels.

Discharge of oil and other pollutants is prohibited under current state law.¹ For this purpose, the term "discharge" includes, but is not limited to, "any spilling, leaking, seeping, pouring, emitting, emptying, or dumping."² Not only does the provision cover discharges which occur within Florida's territorial limits, the statute has explicit extraterritorial effect if the discharge "affects lands and waters within the territorial limits of the state."³ Penalties for discharging oil or other pollutants range up to \$50,000 per day.⁴ Violators are liable for cleanup costs, and can be required to compensate the state for any damage done to the state's natural resources.⁵

Similarly, it is a violation of state law to discharge untreated sewage.⁶ Discharge of untreated sewage from a commercial vessel is presumptively done for a commercial purpose, and is a felony of the third degree.⁷ Violations of the federal regulations pertaining to marine sanitation devices are also subject to sanction under color of state law.⁸ Although in theory these provisions apply beyond the territorial limits of the state (the waters of this state include "the high seas when navigated as a part of a journey or ride to or from the shore of this state")⁹, the extraterritorial effect is not significant because the federal regulations enforceable under the state statute do not apply beyond three nautical miles from shore.

¹ s. 376.041, F.S.

² s. 376.031(7), F.S.

³ Id.

⁴ s. 376.16, F.S.

⁵ s. 376.12, F.S. and s. 376.121, F.S.

⁶ s. 327.53(4), F.S. and s. 403.413(5), F.S.

⁷ s. 403.413(6), F.S.

⁸ s. 327.53(5), F.S.

⁹ s. 327.02(38), F.S.

The penalties for discharging solid waste from a vessel into state waters include civil penalties of up to \$10,000 per day.¹⁰ The DEP may also assess administrative penalties of \$2,000 per day, plus another \$1,000 because the waste is placed in a water body, plus another \$1,000 if the waste is untreated biomedical waste.¹¹ The disposal of hazardous wastes is tightly regulated under part IV of chapter 403, F.S., and disposal violations are similarly severely sanctioned.¹²

Florida Gambling Vessel Industry

Florida has a day-cruise industry which offers gamblers the opportunity to board casino vessels that cruise offshore where casino gambling is legal. From the east coast of Florida, gambling vessels travel beyond the jurisdictional limits of the state (on the Atlantic side the limit is the edge of the Gulf Stream or three miles from shore, whichever is further, and nine miles out on the Gulf side) to gamble. According to information provided by Surfrider Foundation¹³, there are 11 gambling vessels operating from Florida. The 11 gambling vessels identified operate from the following locations:

Table A – Florida gambling vessels, geographic location, and berth location		
Name of vessel	Location	Sails from
SunCruz XII	Cape Canaveral	Port Canaveral
Sterling Ambassador	Cape Canaveral	Port Canaveral
SeaEscape	Fort Lauderdale	Port Everglades
Big M Casino	Fort Myers Beach	Moss Marine
Big Cat Express	Fort Myers Beach	Ft. Myers Beach
SunCruz I	Key Largo	Holiday Inn
SunCruz VI	West Palm Beach	Port of West Palm beach
Discovery Cruises	Miami	Port Everglades
SunCruz III	Ponce Inlet	Ponce Inlet
Palm Beach Princess	Palm Beach	Port of Palm Beach
SunCruz V	Maderia Beach	St. John’s Pass Village

Cruise Ship Memorandum of Understanding (MOU)

Apart from the gambling day-cruise ships, there are over 80 cruise ships that leave various Florida ports and sail to various locations in the Caribbean and the Gulf. DEP has a Memorandum of Understanding (MOU) with the cruise line professional associations under which cruise ships implement waste and wastewater management practices; however, the gambling vessels do not participate as parties to that operating agreement. The waste management practices and procedures contained within the cruiseline MOU meet or exceed the standards set forth in Florida laws and applicable Florida regulations. Those cruise ships operating under the MOU have agreed to not discharge graywater and blackwater while the ship is underway and proceeding at a speed of not less

¹⁰ s. 403.121(1)(b), F.S.

¹¹ s. 403.121(3)(e), F.S.

¹² Alan Richard (past Chair of the Florida Bar’s Admiralty Law Committee and Florida State University, College of Law, Adjunct Professor of Admiralty and Maritime Law) e-mail, March 21, 2006

¹³ The Surfrider Foundation is a grassroots, non-profit, environmental organization that concentrates on issues related to ocean, beach and shore issues. According to the website, Florida has a total of seven chapters located around the state, primarily on the east coast. The information regarding the vessels above is found at <http://www.surfrider.org/sebastianinlet/news/dc-stats.htm>

than 6 knots and within 4 nautical miles from shore or such distance as agreed to with authorities having jurisdiction or provided for by local law except in an emergency, or geographically limited circumstances. The term “graywater” is used to refer to wastewater that is generally incidental to the operation of the ship (i.e., drainage from the dishwasher, shower, laundry, bath and washbasin drains.) The term “blackwater” is used to refer to waste from toilets, urinals, medical sinks, and other similar facilities. Most cruise ships separate blackwater from other wastewaters before processing and discharge.¹⁴

Florida Ports Waste Infrastructure

The Florida Ports Council researched the capability of Florida’s deepwater seaports to pump-out sewage, oily bilge water, untreated or treated gray water, untreated or treated black water, hazardous waste, or biomedical waste from any gambling vessel. The research provided the following results:

- Most seaports have no fixed shore-side capacity to pump-out sewage.
- Those seaports which have provided pump-out sewage services have done so by contracting with tank trucks operated by licensed private waste disposal firms.
- Liquid waste materials, with the exception of hazardous and biomedical waste, are pumped through hoses from vessels to tank trucks.
- Sewage and gray water are processed either at a port’s sanitary waste water system (if a system is located at the port) or hauled by the waste disposal firm to an off-site location.
- Blackwater is generally hauled by the waste disposal firms to an off-site location.
- Removal and disposal of hazardous and biomedical waste is generally handled by the vessel operators without interaction or involvement by seaports.

Table A, above, demonstrates that a gambling vessel berth, for purposes of this bill, would include both a traditional port (Port Canaveral) and nontraditional (Holiday Inn hotel).

Federal Maritime Regulation of Waste

The discharge of sewage is substantially regulated at the federal level and Congress has expressly prohibited states from imposing additional regulations on vessels. See, 33 U.S.C. § 1322 (“no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section”). The statute and the rules implementing the statute specifically allow the discharge of sewage treated to specifications set forth in the Coast Guard’s rules. Currently, it is permissible under federal regulations to discharge untreated sewage beyond three nautical miles from shore.¹⁵ The DEP does not have jurisdiction for purposes of water pollution regulation over a discharge that is located more than three miles from the Atlantic coastline.¹⁶

Effect of Proposed Changes

Definitions

The bill creates section 376.25, F.S., cited as the “Clean Ocean Act.” The bill provides definitions relating to different types of “waste” (biomedical waste, hazardous waste, oily bilge water, sewage, blackwater and graywater), defines what constitutes a “berth” for purposes of this section and defines “coastal waters.” The bill specifically excludes traditional cruise ships from the definition of “gambling vessel.”

Gambling Vessel Registration

The bill requires owner/operators of gambling vessels (sometimes referred to as “day cruises” or “cruises to nowhere”) to register under oath with the DEP on an annual basis.¹⁷ Registration must

¹⁴ Cruise ship MOU, December 6, 2001

¹⁵ 33 C.F.R., part 159 (Marine Sanitation Devices)

¹⁶ August 29, 1994, DEP’s Regulatory Jurisdiction Memo

¹⁷ Upon request by the DEP the registrant must be required to register electronically.

include the business name of the owner/operator of each vessel, contact information, and the registered agent for service of process located in the state. In addition the registration must list the vessel's name or call sign, its port of registry, berth location,¹⁸ passenger and crew capacity, and a weekly schedule of the vessel's operation as a gambling vessel in coastal waters for the calendar year. Finally, the registration must describe the waste treatment system of each registered vessel by type, design, operation and location of all discharge pipes, including the capacity of the holding tank(s). The registrant has a continuing obligation during the period the registration is valid to advise the department of any change in the information provided.

The DEP is required to estimate the minimum volume of waste that is reasonably expected to be released from registered gambling vessels based upon the information provided by the registrants and to post the information on the department's website.

Release Procedures; Disposal fee

The bill requires an owner/operator of a gambling vessel berth location to establish procedures for the release of waste from gambling vessels and to make available a waste-management service to handle and dispose of the vessel's waste, based upon the department's calculations. The owner/operator of the berth location must collect a fee not to exceed the costs associated with making the waste-management service available to each berthed gambling vessel.

Notification of Releases

The bill requires that an owner/operator of a gambling vessel that releases any waste into coastal waters¹⁹ must report that release to the DEP within 24 hours of the release. A vessel that discharges for the purpose of securing the safety of the vessel or saving life at sea is not required to notify the DEP of the release.

The bill defines "waste" as to include sewage, oily bilge water, treated graywater, untreated graywater, treated blackwater, untreated blackwater, hazardous waste or biomedical waste. Furthermore, the bill defines "release" to include any discharge, leak, escape, or emitting. As drafted this section requires a vessel to report the discharge of **any** waste and may conflict with existing federal law or regulation. For example, the discharge of oily water at sea is federally prohibited, but only for discharges containing more than 15 parts per million of oil. See, 33 C.F.R. § 151.10. Within the internal navigable waters of the United States, all discharges of oil or oily mixtures are governed by the Federal Water Pollution Control Act as implemented pursuant to 40 C.F.R. part 110. Discharges of oil permitted under Annex I of MARPOL²⁰ are expressly permitted under the federal rule. These permissible discharges include, but are not limited to "discharges of oil from a properly functioning vessel engine . . . and any discharges of such oil accumulated in the bilges of a vessel discharged in compliance with MARPOL 73/78, Annex I, as provided in 33 CFR part 151, subpart A." 40 C.F.R. § 110.5.

Penalties

A violation of the act subjects the actor to a civil penalty of not more than \$50,000 for each violation. The DEP is required to consider all relevant circumstances when determining the amount of civil penalties to impose, including the degree of toxicity and volume of the release, the extent of harm caused by the violation, whether the effects can be reversed or mitigated, and the defendant's ability to pay, prior history of violations²¹, and economic benefit.²²

¹⁸ If the gambling vessel is anchored in coastal waters but not moored to a waterfront landing and passengers embark or disembark the gambling vessel from another vessel, the waterfront landing facility where the other vessel moors must also be registered as a berth location of the gambling vessel.

¹⁹ The bill defines "coastal waters" to mean the waters of the Atlantic Ocean within three nautical miles of the coastline of the state and waters of the Gulf of Mexico within nine nautical miles of the coastline of the state.

²⁰ The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978.

²¹ It is unclear whether the DEP could consider any violation of environmental laws by the registrant or only prior violations of this Act.

²² The DEP is unsure how effective this section will be, considering the fact they have no "navy" with which to timely investigate any act of self-policing by a gambling vessel in violation of this Act.

Fees

The DEP is required to establish and to collect fees that are adequate to cover the entire cost to the DEP for developing the database for vessel registration, for tracking releases, for compliance with the Act, and for enforcement.

Applicability

A vessel that discharges for the purpose of securing the safety of the vessel or saving life at sea is not required to notify the DEP of the release.

The Act is intended to supplement and not conflict with federal law.²³

The Act does not apply to any vessel of any branch of the United States military.²⁴

The Act does not require a person holding a valid National Pollutant Discharge Elimination System (NPDES) permit governing releases from a gambling vessel to violate the permit. According to the Environmental Protection Agency (EPA) website, Florida is approved by the EPA to administer the state' NPDES program to regulate federal facilities in the state, to administer the state pretreatment program and the general permit program. Florida is not yet approved to administer the biosolids (sludge) program.²⁵

The Act does not apply to any gambling vessel that operates a marine waste treatment system that produces sterile, clear and odorless reuse water without generating solid waste, and which eliminates the need to pump out or dump wastewater.

Rules

The bill authorizes DEP to adopt rules to implement and administer the provisions provided for in the bill.

Federal Activities

The bill instructs the DEP to submit a request by August 1, 2008, to the U.S. Secretary of Commerce to propose that the Florida Coastal Zone Management Program be amended to include this Act.²⁶

If the Secretary of Commerce approves the amendment of the Florida Coastal Zone Management Act, the DEP must request the appropriate federal authorities to prohibit the release of waste from gambling vessels in any waters that could affect the coastal waters of the state.

The DEP is directed to request the appropriate federal authorities to prohibit the release of waste within federal territorial waters off the coast of the state.

The bill provides an effective date of July 1, 2008.

²³ Where the federal government has addressed an issue (as an example, see graywater comments in Part III COMMENTS section) there may be no "supplementing" permitted, absent a particularized and overriding local need outweighing the need for uniformity of regulation.

²⁴ Staff spoke with a representative with the Office of Public Communication for the U.S. Department of Defense who confirmed that the DOD does not have any gambling vessels. In fact, gambling is strictly regulated. See, Chapter 2-302, Gambling, Department of Defense Joint Ethics Regulations, found at www.dod.mil/dodge/defense_ethics/ethics_regulation/jer1-6.doc.

²⁵ According to the DEP, however, NPDES permits are typically for stationary point sources. To the department's knowledge, no vessel currently holds an NPDES permit.

²⁶ The Florida Coastal Management Program (FCMP) was approved by the U.S. Department of Commerce National Oceanic and Atmospheric Administration's (NOAA) in 1981 and is codified at Chapter 380, Part II, F.S. The State of Florida's coastal zone includes the area encompassed by the state's 67 counties and its territorial seas. The FCMP consists of a network of 23 Florida Statutes administered by eight state agencies and the five water management districts. This framework allows the state to make integrated, balanced decisions that ensure the wise use and protection of the state's water, property, cultural, historic, and biological resources; protect public health; minimize the state's vulnerability to coastal hazards; ensure orderly, managed growth; protect the state's transportation system; and sustain a vital economy. To keep the approved FCMP current, the state must periodically update the statutes that comprise the program after legislative amendments have occurred. The changes are submitted to NOAA's Office of Coastal Resource Management for approval, as required by 15 CFR 923.84. The FCMP normally submits the changes on an annual basis, but can submit them on an as-needed basis if necessary.

C. SECTION DIRECTORY:

See, Section B. EFFECT OF PROPOSED CHANGES.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:	<u>2008-09</u>	<u>2009-10</u>
Fees from gambling vessels	\$253,052	\$147,276
2. Expenditures:	<u>2008-09</u>	<u>2009-10</u>
Rulemaking	\$35,000	\$0
Salary for 2 FTEs	\$147,276	\$147,276
OCO package and one vehicle	\$70,776	\$0
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Total	\$253,052	\$147,276

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
See Fiscal Comments
2. Expenditures:
See Fiscal Comments

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments

D. FISCAL COMMENTS:

The bill establishes certain fees for gambling vessels and establishes monetary penalties associated with violations established in the bill.

DEP is responsible for establishing and collecting fees that are adequate to cover the entire cost to the department for developing and implementing its responsibilities which concern registration of gambling vessels, tracking of releases, rule making, and administering the compliance and enforcement of the bill provisions.

The bill requires the owner (port, local government, private owner, etc.) of each waterfront-landing facility that is registered as a gambling vessel's berth location to make available a waste-management service to the gambling vessel. The owner of each waterfront-landing facility is required to collect a fee from the gambling vessel not to exceed the costs associated with making waste-management service available to each gambling vessel. A gambling vessel may need retrofitting to accommodate the necessary apparatus for land-side releases of waste. A retrofit may exceed a cost of \$200,000.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

If a local government is an owner/operator of a waterfront facility that is identified as a berth location under the Act, then the local government may need to expend funds establishing procedures and making available a waste-management service that has the capacity of handling the vessel's waste. The costs may be negligible, however, and would be subject to reimbursement by the vessels according to the provisions of the Act.

3. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DEP to adopt rules to implement and administer the provisions provided for in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The following comments, as well as the earlier comments regarding oily bilge water, were provided by Captain Alan Richard, past Chair of the Florida Bar's Admiralty Law Committee and Florida State University, Adjunct Professor of Admiralty and Maritime Law, first in 2006, and again in 2007. Staff is including Captain Richard's comments because many of the same issues are present in the current bill.

The discharge of sewage is substantially regulated at the federal level and Congress has expressly prohibited states from imposing additional regulations on vessels. See, 33 U.S.C. § 1322 ("no State or political subdivision thereof must adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section"). The statute and the rules implementing the statute specifically allow the discharge of sewage treated to specifications set forth in the Coast Guard's rules. Moreover, it is permissible under the federal regulations to discharge untreated sewage beyond three nautical miles from shore. See generally, 33 C.F.R. part 159 (Marine Sanitation Devices). Finally, sewage from vessels, within the meaning of 33 U.S.C. § 1322, is specifically excluded from the definition of "pollutant." See, 33 U.S.C. § 1362.

The prohibition against the discharge of graywater is also problematic. The bill defines "graywater" as being a part of sewage coming from sinks, baths, lavatories, and laundry. Federal law, however, only includes graywater within the definition of sewage for commercial vessels on the Great Lakes. See, 33 U.S.C. § 1322(6). The implication arising from this under the rules of statutory construction is that graywater is not a constituent part of sewage anywhere other than on the Great Lakes. The courts in Florida "have generally recognized the principle of statutory construction, *expressio unius est exclusio alterius* _ the mention of one thing implies the exclusion of another." *Rotemi Realty, Inc. v. Act Realty Co., Inc.* 911 So.2d 1181, 1187 (Fla. 2005); accord, *Grenitz v. Tomlian*, 858 So.2d 999, 1002 (Fla. 2003); *Moonlit Waters Apartments, Inc. v. Cauley*, 666 So.2d 898, 900 (Fla. 1996). Therefore, defining graywater as a constituent part of sewage conflicts with federal law.

The other issue of federal preemption or conflict as it pertains to graywater is that federal rules implementing the National Pollutant Discharge Elimination System categorically exclude graywater from the NPDES permitting requirements under the Clean Water Act. See, 40 C.F.R. § 122.3(a). Under the rules, all discharges of laundry, shower, and galley sink wastes and all other discharges incidental to the normal operation of a vessel are permissible and exempt from NPDES permitting. In the absence of particularized and overriding local need outweighing the need for uniformity of regulation, it is likely that the courts will strike down this portion of the statute. Given the broad geographic scope of the bill and given that the requirement will apply only to gambling vessels and not to other vessels arguably generating substantially more bath, lavatory, and dishwashing effluent, it is unlikely that a particularized necessity can be demonstrated.

Within Florida's geographic boundaries most provisions of the bill not preempted by or in conflict with federal law are already in place. Discharge of oil and other pollutants is prohibited under current state law. Section 376.041, F.S. For this purpose, the term "discharge" includes, but is not limited to, "any spilling, leaking, seeping, pouring, emitting, emptying, or dumping." Section 376.031(7), F.S. Not only does the provision cover discharges which occur within Florida's territorial limits, the statute has explicit

extraterritorial effect if the discharge "affects lands and waters within the territorial limits of the state." Id. Penalties for discharging oil or other pollutants range up to \$50,000 per day. Section 376.16, F.S. Violators are liable for cleanup costs (s. 376.12, F.S.), and can be required to compensate the state for any damage done to the state's natural resources. See, ss. 376.12(4), 376.121, F.S.

Similarly, it is already a violation state law to discharge untreated sewage. Sections 327.53(4), 403.413(5), F.S. Discharge of untreated sewage from a commercial vessel is presumptively done for a commercial purpose (s. 403.413(6)(g), F.S.), and is a felony of the third degree (s.403.413(6)(j), F.S.). Violations of the federal regulations pertaining to marine sanitation devices are also sanctionable under color of state law. See, s. 327.53(5), F.S. Although in theory these provisions apply beyond the territorial limits of the state (the waters of this state include "the high seas when navigated as a part of a journey or ride to or from the shore of this state" (s. 327.02(38), F.S.)), the extraterritorial effect is not significant because the federal regulations enforceable under the state statute do not apply beyond three nautical miles from shore.

The bill's prohibition of the discharge of solid waste, including hazardous waste, is also redundant to the existing prohibitions under state law. The penalties for discharging solid waste from a vessel into state waters include civil penalties of up to \$10,000 per day (s. 403.121(1)(b), F.S.). The DEP may also assess administrative penalties of \$2,000 per day, plus another \$1,000 because the waste is placed in a water body, plus another \$1,000 if the waste is untreated biomedical waste. Section 403.121(3)(e), F.S. The disposal of hazardous wastes is tightly regulated under part IV of chapter 403, Florida Statutes, and disposal violations are similarly severely sanctioned.

D. STATEMENT OF THE SPONSOR

No Sponsor Statement Submitted

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 19, 2008, the Environment and Natural Resources Council adopted one amendment and passed the bill as a council substitute (CS). The amendment, which is included in the CS, adds to the list of vessels or activities to which this Act does not apply *any gambling vessel that operates a marine waste treatment system that produces sterile, clear and odorless reuse water without generating solid waste, and which eliminates the need to pump out or dump wastewater*. Such a vessel would need to verify the system's operation annually to the DEP to take advantage of the exemption.