

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-345
HOUSE BILL 1378

AN ACT TO PROVIDE THAT THE OWNER OR OPERATOR OF CERTAIN MARINAS SHALL INSTALL AND MAINTAIN PUMPOUT FACILITIES BY JULY 1, 2010, TO PROHIBIT THE DISCHARGE OF SEWAGE FROM A VESSEL INTO CERTAIN COASTAL WATERS, TO REQUIRE THE OWNER OR OPERATOR OF ANY MARINA WHO KNOWS THAT A VESSEL DOCKED AT THE MARINA HAS UNLAWFULLY DISCHARGED SEWAGE INTO COASTAL WATERS TO REPORT THE UNLAWFUL DISCHARGE TO THE APPROPRIATE LAW ENFORCEMENT AGENCY, TO REQUIRE VESSEL OWNERS AND OPERATORS TO KEEP A LOG REGARDING THE DATE AND LOCATION OF PUMPOUTS OF SEWAGE FROM MARINE SANITATION DEVICES, AND TO PROVIDE THAT A PILOT PROGRAM IN NEW HANOVER COUNTY SHALL BE DESIGNED AND IMPLEMENTED BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO BEGIN PHASING IN THE PUMPOUT STATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 77 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"Clean Coastal Water and Vessel Act.

"§ 77-125. Definitions.

The following definitions apply in this Article:

- (1) Department. – Department of Environment and Natural Resources.
- (2) Large vessel marina. – A marina that has docking facilities and has more than 10 wet slips for vessels of 26 feet or more that have marine sanitation devices. The term includes privately and publicly owned marinas and anchorages.
- (3) Marine sanitation device. – As defined in 33 U.S.C. § 1322. The term does not include 'portable toilets' as defined in this act.
- (4) Portable toilet. – A self-contained mobile toilet facility and holding tank for sewage.
- (5) Pumpout facility. – The term includes stations affixed permanently to a dock, mobile stations mounted to a golf cart or hand truck, direct slipside connections, pumpout vessels, and tanker trucks.
- (6) Sewage. – Treated or untreated human waste. As used in this act, the term includes effluent produced or held by any type of marine sanitation device.
- (7) Vessel. – As defined in G.S. 75A-2.

"§ 77-126. Marina pumpout facilities and services required in certain areas; marinas and local government may apply for grant funds.

(a) The owner or operator, as appropriate, of any large vessel marina that is located on coastal waters designated as a no discharge zone by the Environmental Protection Agency or that is located in a county or municipality that has adopted a resolution to petition the



Environmental Protection Agency for a no discharge zone designation shall either (i) install and maintain an operational pumpout facility at the marina that is available to customers patronizing the marina or (ii) contract with an outside service provider to provide pumpout services on a regular basis to the marina.

(b) The owner or operator, as appropriate, of a large vessel marina may apply for any private, State, or federal grant funds that are available for the purpose of assisting with the cost of installing and maintaining a pumpout facility. A county or municipality may also apply for any private, State, or federal grant funds that are available for the purpose of assisting with the cost of installing and maintaining a pumpout facility.

"§ 77-127. Department of Environment and Natural Resources establish pumpout facility criteria; inspection of pumpout facilities and vessels docked or moored at a marina.

(a) The Department of Environment and Natural Resources shall establish appropriate criteria for pumpout facilities and pumpout services provided at large vessel marinas that offer docking services to the general public. The criteria shall include requirements that the facility or services be available to the public, the pumpout facility be open during normal hours, and the pumpout facility be used for its intended purpose. The criteria also shall include a requirement that these marinas maintain records regarding the pumpout facility or services. The Department also shall develop guidelines for inspections of pumpout facilities at such marinas and of vessels that are docked or moored at these marinas.

(b) The Department also shall establish appropriate criteria for pumpout facilities and pumpout services provided at privately owned large vessel marinas that do not offer docking services to the general public. The criteria shall include requirements that the facility or services be made reasonably available to members of the private marina and the pumpout facility be used for its intended purpose. The criteria also shall include a requirement that these marinas maintain records regarding the pumpout facility or services. The Department also shall develop guidelines for inspections of pumpout facilities at such marinas and of vessels that are docked or moored at these marinas.

"§ 77-128. Vessel owner and operator required to keep log of pumpout dates.

(a) Any owner or operator of a vessel that has a marine sanitation device shall maintain a record of the date of each pumpout of the marine sanitation device and the location of the pumpout facility. Each record shall be maintained for a period of one year from the date of the pumpout.

(b) A violation of this section is punishable as a Class 3 misdemeanor. No civil penalty shall be assessed under G.S. 77-130 for a violation of this section.

"§ 77-129. No discharge of treated or untreated sewage in coastal waters; duty of marina owner or operator to report unlawful discharge.

(a) No person shall discharge treated or untreated sewage into coastal waters, including effluent produced or held by any type of marine sanitation device into coastal waters. The owner or operator of a vessel with a marine sanitation device shall keep the overboard waste discharge valves of the device secure by acceptable methods set forth under 33 C.F.R. § 159.7(b) so as to prevent the discharge of treated or untreated sewage, except when lawfully discharging sewage at a pumpout facility. A violation of this section is punishable as a Class 1 misdemeanor and also may be assessed a civil penalty pursuant to G.S. 77-130.

(b) If the owner or operator of a large vessel marina knows that the owner or operator of any vessel docked or moored at the marina knowingly and unlawfully discharged sewage, including effluent produced or held by a marine sanitation device, in coastal waters in violation of this section, then the marina owner or operator shall report the unlawful discharge to the appropriate law enforcement agency. A marina owner or operator who fails to report an unlawful discharge pursuant to this subsection may be assessed a civil penalty pursuant to G.S. 77-130.

"§ 77-130. Enforcement.

(a) The following officers have authority to enforce this Article and to inspect a large vessel marina or vessel subject to this Article:

- (1) Wildlife protectors.
- (2) Marine fisheries inspectors.
- (3) Any sworn local law enforcement officer with jurisdiction to enforce the laws in the county or municipality in which the marina or vessel is located.
- (4) United States Coast Guard personnel.

(b) Officers enforcing the provisions of this Article shall report violations to the Department.

(c) Unless provided otherwise by this Article, a civil penalty of not more than ten thousand dollars (\$10,000) may be assessed by the Secretary of Environment and Natural Resources against any person who violates this Article. If any action or failure for which a penalty may be assessed under this section is continuous, the Secretary of Environment and Natural Resources may assess a penalty not to exceed ten thousand dollars (\$10,000) per day for so long as the violation continues.

"§ 77-131. Application of Article.

The provisions of this Article apply only to the following:

- (1) A large vessel marina that is located on coastal waters designated by the Environmental Protection Agency as a no discharge zone or that is located in a county or municipality that has adopted a resolution to petition the Environmental Protection Agency for a no discharge zone designation.
- (2) A vessel in coastal waters that are either designated as a no discharge zone or are included in a petition to the Environmental Protection Agency to be designated as a no discharge zone unless the petition has been denied by the Environmental Protection Agency.

"§ 77-132. Rule-making authority.

The Department shall adopt rules to implement this Article."

SECTION 2. The Division of Coastal Management of the Department of Environment and Natural Resources shall design and implement a pilot program in New Hanover County to begin phasing in the requirements of Section 1 of this act. The Department shall report to the Environmental Review Commission by December 1, 2009, regarding the design of the pilot program and shall implement the pilot program no later than January 1, 2010. The Department of Environment and Natural Resources shall report to the Environmental Review Commission by March 1, 2010, regarding the implementation of the pilot project.

SECTION 3. Section 1 of this act becomes effective July 1, 2010, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of July, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue

Governor

Approved 9:17 a.m. this 27th day of July, 2009