

2001 ASSEMBLY BILL 437

June 7, 2001 – Introduced by Representatives GUNDERSON, AINSWORTH, FREESE, OTT, SERATTI, BLACK, LASSA, PLALE, SYKORA, PLOUFF, PETROWSKI, STASKUNAS, MILLER, KRAWCZYK, BOYLE and J. LEHMAN, cosponsored by Senators ROESSLER, DECKER, SCHULTZ and HUELSMAN. Referred to Committee on Environment.

- 1 **AN ACT** *to amend* 281.98; and *to create* 20.370 (4) (ai) and 281.37 of the statutes;
2 **relating to:** the regulation of ballast water, aquatic nuisance species, granting
3 rule-making authority, making an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits the operation of a vessel on the waters of this state if the vessel contains ballast water that was acquired outside of the waters of this state, or sediment from ballast water that was acquired outside of the waters of this state, unless the ballast water and any sediments have been sterilized in compliance with rules to be promulgated by the department of natural resources (DNR). The bill also prohibits the discharge of ballast water or sediments from ballast water into the waters of this state without a permit issued by DNR.

The bill requires DNR to administer an inspection program to ensure that aquatic nuisance species do not enter the waters of this state through the discharge of ballast water or sediment. Aquatic nuisance species are species that are not native to this state and that threaten native species or threaten a commercial or recreational activity that is dependent on infested waters. The bill requires DNR to establish fees for ballast water discharge permits and for inspections conducted under the inspection program.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.370 (4) (ai) of the statutes is created to read:

2 20.370 (4) (ai) *Water resources — ballast water regulation.* All moneys received
3 under s. 281.37 (5) (b) for ballast water regulation under s. 281.37.

4 **SECTION 2.** 281.37 of the statutes is created to read:

5 **281.37 Ballast water regulation. (1) DEFINITIONS.** In this section:

6 (a) “Aquatic nuisance species” has the meaning given in s. 30.1255 (1).

7 (b) “Ballast water” means water taken on board a vessel to control or maintain
8 the vessel’s trim, draft, or stability, or to control stresses on the vessel.

9 (c) “Sediment” means matter that settles out of ballast water in a vessel.

10 (d) “Sterilized” means treated by filtration, thermal methods, ultraviolet light,
11 biocides, or another technique that is approved by the department, to destroy or
12 remove living organisms.

13 **(2) STERILIZATION OF BALLAST WATER.** A person may not operate a vessel on the
14 waters of the state if the vessel contains ballast water that was acquired outside of
15 the waters of the state or contains sediment from ballast water that was acquired
16 outside of the waters of the state unless any ballast water and any sediments have
17 been sterilized in compliance with rules promulgated under sub. (5) (a).

18 **(3) DISCHARGE OF BALLAST WATER.** (a) A person may not discharge ballast water
19 or sediments into the waters of the state unless the discharge is authorized by a
20 permit issued by the department under this subsection.

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1 (b) A person required to have a permit under this subsection shall provide the
2 information required by the department and pay the fee specified under sub. (5) (b).

3 **(4) INSPECTION PROGRAM.** The department shall administer a ballast water and
4 sediment inspection program to ensure that aquatic nuisance species do not enter
5 the waters of the state through the discharge of ballast water or sediment.

6 **(5) RULES.** The department shall promulgate rules for the administration of
7 this section including rules that do all of the following:

8 (a) Specify requirements for sterilizing ballast water and sediment to ensure
9 that aquatic nuisance species do not enter the waters of the state through the
10 discharge of ballast water or sediment.

11 (b) Specify fees for issuing permits and conducting inspections under this
12 section.

13 **(6) PENALTY.** Any person who violates this section shall be required to forfeit
14 not less than \$2,500 and not more than \$25,000 per day of violation.

15 **SECTION 3.** 281.98 of the statutes is amended to read:

16 **281.98 Penalties. (1)** Except as provided in ss. 281.37 (6), 281.47 (1) (d),
17 281.75 (19), and 281.99 (2), any person who violates this chapter or any rule
18 promulgated or any plan approval, license, or special order issued under this chapter
19 shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of
20 continued violation is a separate offense. While an order is suspended, stayed, or
21 enjoined, this penalty does not accrue.

22 **(2)** In addition to the penalties provided under sub. (1) or s. 281.37 (6) or 281.99
23 (2), the court may award the department of justice the reasonable and necessary
24 expenses of the investigation and prosecution of a violation of this chapter, including
25 attorney fees. The department of justice shall deposit in the state treasury for

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1 deposit into the general fund all moneys that the court awards to the department or
2 the state under this subsection. Ten percent of the money deposited in the general
3 fund that was awarded under this subsection for the costs of investigation and the
4 expenses of prosecution, including attorney fees, shall be credited to the
5 appropriation account under s. 20.455 (1) (gh).

6 **(3)** In addition to the penalties under sub. (1) or s. 281.37 (6), the court may
7 order the defendant to abate any nuisance, restore a natural resource, or take, or
8 refrain from taking, any other action as necessary to eliminate or minimize any
9 environmental damage caused by the defendant.

10 **SECTION 4. Effective date.**

11 (1) This act takes effect on the first day of the 13th month beginning after
12 publication.

13 **(END)**