

2001 ASSEMBLY BILL 598

October 29, 2001 – Introduced by Representatives GUNDERSON, LADWIG, MUSSER, KRAWCZYK, OWENS, GRONEMUS, J. FITZGERALD, HAHN, ALBERS, KESTELL, McCORMICK, MEYERHOFER, OTT, RYBA, TOWNSEND, SERATTI, BOYLE, COLON, HUNDERTMARK, M. LEHMAN, PLALE, STONE and SYKORA, cosponsored by Senators BAUMGART, SCHULTZ, COWLES, ROESSLER, GROBSCHMIDT and WIRCH. Referred to Committee on Environment.

- 1 **AN ACT** *to create* 281.39 of the statutes; **relating to:** aquatic nuisance species
2 and ballast water management.

Analysis by the Legislative Reference Bureau

This bill relates to the treatment and other management of ballast water in vessels operating on the Great Lakes to prevent the introduction and to minimize the spread of aquatic nuisance species. Aquatic nuisance species are plants and animals that are not native and that threaten the diversity or abundance of native species or the ecological stability of infected waters or that threaten commercial, agricultural, or recreational activities that are dependent on infected waters.

The bill requires the department of natural resources (DNR) to determine, by March 1, 2002, whether ballast water management practices proposed by the Shipping Federation of Canada are being complied with by all oceangoing vessels operating on the portions of the Great Lakes within the boundaries of this state. By that date, DNR must also determine whether ballast water management practices proposed jointly by the Lake Carriers' Association and the Canadian Shipowners' Association are being complied with by all nonoceangoing vessels operating on the portions of the Great Lakes within the boundaries of this state. The bill requires DNR to maintain a list, beginning on March 1, 2002, of the vessels that are complying with these standards. The bill prohibits DNR from awarding a grant, a loan, or other financial assistance to the owner or operator of a vessel that operates on the portions of the Great Lakes within the boundaries of this state and that is not on the list or to a person in this state who has a contract for the transportation of cargo with a person who owns or operates a vessel that operates on the portions of the Great Lakes within the boundaries of this state and that is not on the list.

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The bill requires DNR to identify, also by March 1, 2002, any available ballast water treatment methods that could be used by oceangoing vessels to prevent the introduction of aquatic nuisance species into the Great Lakes while protecting the safety of the vessels. If DNR does identify any ballast water management methods, it must also determine a date after which those methods could be used by all oceangoing vessels operating on the portions of the Great Lakes within the boundaries of this state. If DNR is not able to identify any ballast water treatment methods that satisfy these requirements by March 1, 2002, but later does so, it must determine a date after which such a ballast water treatment method could be used by all oceangoing vessels operating on the portions of the Great Lakes within the boundaries of this state. The bill requires DNR to maintain a list, beginning after the date on which it determines that a safe ballast water treatment method could be used by all oceangoing vessels, of the vessels that are complying with such a ballast water treatment method. The bill prohibits DNR from awarding a grant, a loan, or other financial assistance to a person who owns or operates an oceangoing vessel that operates on the portions of the Great Lakes within the boundaries of this state and that is not on the list or to a person in this state who has a contract for the transportation of cargo with the owner or operator of an oceangoing vessel that operates on the portions of the Great Lakes within the boundaries of this state and that is not on the list.

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.** 281.39 of the statutes is created to read:

2 **281.39 Ballast water management. (1) DEFINITIONS.** In this section:

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

4 (b) “Ballast water” means water and associated solids taken on board a vessel
5 to control or maintain the vessel’s trim, draft, or stability, or to control stresses on the
6 vessel.

7 (c) “Ballast water treatment method” means one or more of the following
8 methods of treating ballast water and sediments to remove or destroy living
9 organisms:

10 1. Filtration.

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1 2. The use of biocides or ultraviolet light.

2 3. Thermal methods.

3 4. Another treatment technique approved by the department.

4 (d) “Nonocean-going vessel” means a vessel that takes on ballast water and that
5 is not an ocean-going vessel.

6 (e) “Ocean-going vessel” means a vessel that takes on ballast water and that
7 operates on the Great Lakes or the St. Lawrence Waterway after operating outside
8 of the Great Lakes and the St. Lawrence Waterway in waters of the Atlantic Ocean.

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

10 (g) “St. Lawrence Waterway” means the St. Lawrence River, the St. Lawrence
11 Riverway, and the Gulf of St. Lawrence.

12 **(2) COOPERATION.** The department shall cooperate with the U.S. and Canadian
13 governments, other states, Canadian provinces, and the maritime industry to
14 prevent the introduction of aquatic nuisance species into the Great Lakes and to
15 minimize the spread of aquatic nuisance species within the Great Lakes.

16 **(3) INITIAL REQUIREMENTS.** (a) 1. By March 1, 2002, the department shall
17 determine whether the ballast water management practices that were proposed by
18 the Shipping Federation of Canada to the Michigan department of environmental
19 quality on June 7, 2000, are being complied with by all ocean-going vessels operating
20 on the portions of the Great Lakes within the boundaries of this state.

21 2. Upon request by the department, the owner or operator of an ocean-going
22 vessel that operates on the portions of the Great Lakes within the boundaries of this
23 state shall provide information needed to determine whether the vessel is complying
24 with the ballast water management practices described in subd. 1.

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1 (b) 1. By March 1, 2002, the department shall determine whether the ballast
2 water management practices that were proposed jointly by the Lake Carriers'
3 Association and the Canadian Shipowners' Association to the Michigan department
4 of environmental quality on January 26, 2001, are being complied with by all
5 nonocean-going vessels operating on the portions of the Great Lakes within the
6 boundaries of this state.

7 2. If a nonocean-going vessel that is a ferry used to transport motor vehicles
8 across Lake Michigan has a configuration that prevents compliance with one or more
9 of the ballast water management practices described in subd. 1., the department
10 shall, by March 1, 2002, identify alternative ballast water management practices
11 with which the vessel could comply and determine whether the vessel is complying
12 with those alternative ballast water management practices.

13 3. Upon request by the department, the owner or operator of a nonocean-going
14 vessel that operates on the portions of the Great Lakes within the boundaries of this
15 state shall provide information showing whether the vessel is complying with the
16 ballast water management practices described in subd. 1. or 2.

17 (c) By March 1, 2002, the department shall determine whether the St.
18 Lawrence Seaway Management Corporation and the Saint Lawrence Seaway
19 Development Corporation have made the ballast water management practices
20 described in pars. (a) 1. and (b) 1. conditions of passage on the St. Lawrence Seaway.

21 (d) 1. By March 1, 2002, the department shall determine whether one or more
22 ballast water treatment methods could be used by ocean-going vessels to prevent the
23 introduction of aquatic nuisance species into the Great Lakes while protecting the
24 safety of the vessels, their crews, and their passengers, and, if so, identify the ballast
25 water treatment method or ballast water treatment methods.

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1 2. If the department identifies one or more ballast water treatment methods
2 under subd. 1. the department shall, by March 1, 2002, determine a date after which
3 one or more of those ballast water treatment methods could be used by all oceangoing
4 vessels operating on the portions of the Great Lakes within the boundaries of this
5 state.

6 3. If the department does not identify any ballast water treatment methods
7 under subd. 1. the department shall, by March 1, 2002, determine the actions needed
8 to develop, test, and make available to vessel owners one or more ballast water
9 treatment methods that would satisfy the requirements in subd. 1.

10 4. If the department does not identify any ballast water treatment methods
11 under subd. 1. but at any time after making the determination under subd. 1.
12 identifies one or more ballast water treatment methods that satisfy the
13 requirements of subd. 1., the department shall determine a date after which one or
14 more of those ballast water treatment methods could be used by all oceangoing
15 vessels operating on the portions of the Great Lakes within the boundaries of this
16 state.

17 (e) By March 1, 2002, the department shall submit to the governor and, under
18 s. 13.172 (3), to the standing committees of the legislature with primary jurisdiction
19 over issues relating to natural resources and the environment a report that describes
20 the determinations made by the department under pars. (a) to (d).

21 **(4) MARCH 1, 2003 DEADLINE.** (a) By March 1, 2003, if the department has
22 identified one or more ballast water treatment methods under sub. (3) (d) 1. or 4., the
23 department shall determine whether all oceangoing vessels that are operating on the
24 portions of the Great Lakes within the boundaries of this state are using one of those
25 ballast water treatment methods to prevent the introduction of aquatic nuisance

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1 species into the Great Lakes. If the department determines that some oceangoing
2 vessels operating on the portions of the Great Lakes within the boundaries of this
3 state are not using one of those ballast water treatment methods by the date specified
4 under sub. (3) (d) 2. or 4., the department shall determine the reasons that they are
5 not doing so.

6 2. Upon request by the department, the owner or operator of an oceangoing
7 vessel that operates on the portions of the Great Lakes within the boundaries of this
8 state shall provide information needed to determine whether the vessel is using a
9 ballast water treatment method identified under sub. (3) (d) 1. or 4. by the date
10 specified under sub. (3) (d) 2. or 4.

11 (b) By March 1, 2003, the department shall determine whether the St.
12 Lawrence Seaway Management Corporation and the Saint Lawrence Seaway
13 Development Corporation have made the use of a ballast water treatment method
14 a condition of passage on the St. Lawrence Seaway.

15 (c) By March 1, 2003, the department shall submit to the governor and, under
16 s. 13.172 (3), to the standing committees of the legislature with primary jurisdiction
17 over issues relating to natural resources and the environment a report that describes
18 the determinations made by the department under pars. (a) and (b).

19 **(5) LISTS.** (a) Beginning on March 1, 2002, the department shall compile and
20 maintain a list of all oceangoing vessels operating on the portions of the Great Lakes
21 within the boundaries of this state that it determines have complied with the ballast
22 water management practices described in sub. (3) (a) 1. during the previous 12
23 months and of all of the nonoceangoing vessels operating on the portions of the Great
24 Lakes within the boundaries of this state that it determines have complied with the
25 ballast water management practices described in sub. (3) (b) 1. or 2. during the

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1 previous 12 months. The department shall update the list continually and shall
2 provide access to the list on the Internet.

3 (b) Beginning after the date determined by the department under sub. (3) (d)
4 2. or 4., the department shall compile and maintain a list of all oceangoing vessels
5 operating on the portions of the Great Lakes within the boundaries of this state that
6 have been using a ballast water treatment method identified under sub. (3) (d) 1. or
7 4. during the previous 12 months. The department shall update the list continually
8 and shall provide access to the list on the Internet.

9 (c) The department shall annually distribute copies of the lists under pars. (a)
10 and (b) to each person in this state who has contracts for the transportation of cargo
11 with operators of oceangoing vessels or nonoceangoing vessels.

12 (d) The department shall provide copies of the initial lists under pars. (a) and
13 (b) and of the annual lists under par. (c) to the governor and, under s. 13.172 (3), to
14 the standing committees of the legislature with primary jurisdiction over issues
15 relating to natural resources and the environment.

16 **(6) INELIGIBILITY.** (a) Notwithstanding ss. 281.75 (7) (a) and 292.65 (8) (c), after
17 March 1, 2002, the department may not award a grant, a loan, or other financial
18 assistance to any of the following:

19 1. A person who owns or operates an oceangoing vessel or a nonoceangoing
20 vessel that operates on the portions of the Great Lakes within the boundaries of this
21 state and that is not on the list compiled under sub. (5) (a).

22 2. A person in this state who has a contract for the transportation of cargo with
23 a person described in subd. 1.

24 (b) After the department compiles a list under sub. (5) (b), the department may
25 not make a grant, a loan, or other financial assistance to any of the following:

