

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3513/P1dn
RCT:hmh:kjf

August 7, 2001

Mike Bruhn:

This is a preliminary version of the proposal that you requested concerning Great Lakes shipping, aquatic nuisance species, and ballast water management, based on Michigan legislation, SB 152, as it passed the Michigan House.

There is some more work that I need to do on this proposal. I decided to provide a preliminary draft so that you can review the main provisions of the draft in the meantime. I need to review the Wisconsin statutes to determine whether additional provisions need to be added to this draft to ensure that the prohibition on DNR providing financial assistance to certain persons, in proposed s. 281.39 (6), does not conflict with other statutes. You may wish to consider whether there are any kinds of financial assistance that DNR provides which you would want to except from this prohibition.

There are a number of differences between this draft and the Michigan legislation. I made some changes to conform the proposal to our statutory style. I also made some changes that I hope make the proposal more clear. I modified the definition of "oceangoing vessel" in the Michigan legislation because it did not require that a vessel operate on the ocean, so it could have been read to apply to a boat that operated in a river and then in the Great Lakes. Also, I added to the definitions of "oceangoing vessel" and "nonoceangoing vessel" the requirement that the vessel take on ballast water so that it would be clear that the legislation does not apply to craft that do not do so.

Based on the Michigan legislation, the draft requires DNR to determine whether various ballast water management practices are being used by all oceangoing and nonoceangoing vessels operating on the Great Lakes and the St. Lawrence Waterway. This would include vessels that do not enter Lake Michigan or Lake Superior. The draft requires operators of all of these vessels to provide information requested by DNR concerning their ballast water practices. This state may not have the legal authority to require operators of vessels that never operate within waters that are within the state's jurisdiction to provide the state with information. Also, I do not know whether information is available to DNR to identify the operators of all vessels that operate on the Great Lakes. Please consider whether you want to change these provisions in any way.

The draft also requires DNR to provide lists of vessels that comply with ballast water management practices to persons in this state who have contracts with vessel operators. I do not know whether information is available to DNR to identify those persons.

Please contact me with any questions or redraft instructions.

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