

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

HOUSE BILL NO. 1058
(Legislative Council)
(Government Organization Committee)

AN ACT to amend and reenact sections 20.1-13-05, 61-28-02, 61-28-03, 61-28-05, and 61-28-07 of the North Dakota Century Code, relating to the powers, procedures, and composition of the state water pollution control board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-13-05 of the North Dakota Century Code is amended and reenacted as follows:

20.1-13-05. Equipment - Penalty.

1. Every vessel must have aboard:
4. ~~to 3. Repealed by S.L. 1975, ch. 214, § 16.~~
4. a. If equipped with a marine toilet or other similar device for the disposition of sewage or other wastes, only that type of marine toilet equipped with a treatment device meeting standards established by the state water pollution control board. The ~~board~~ department of health shall furnish a list of the types of treatment devices currently available and considered acceptable for use with marine toilets under this ~~subsection~~ subdivision. No person owning or operating a vessel upon the waters of this state may use, operate, or permit the use or operation of any marine toilet or similar device unless it is approved under this ~~subsection~~ subdivision. No person may discharge into the waters of this state, directly or indirectly from a vessel, any untreated sewage or other wastes. No container of untreated sewage or other wastes may be placed, left, discharged, or caused to be placed, left, or discharged in or near any waters of this state from a vessel in such a manner or quantity as to create a nuisance or health hazard, or pollute such waters.
5. b. Such additional equipment designed to promote the safety of navigation and of persons as the game and fish department may find appropriate and for which it has provided in its rules ~~and regulations~~.
6. 2. No person may operate or give permission for the operation of a vessel ~~which~~ that is not equipped as required by this section ~~or modification thereof~~.
7. 3. Any person who violates this section is guilty of a class 2 noncriminal offense.

SECTION 2. AMENDMENT. Section 61-28-02 of the North Dakota Century Code is amended and reenacted as follows:

61-28-02. Definitions. ~~For the purposes of As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section unless the context otherwise requires:~~

1. "Board" means the state water pollution control board.
2. "Department" means the state department of health.
3. "Discharge" means the addition of any waste to state waters from any point source.

4. "Disposal system" means a system for disposing of wastes, either by surface or underground methods, and includes sewerage systems, treatment works, disposal wells, and other systems.
5. "Person" ~~means the state or any agency or institution thereof, includes any municipality, political subdivision, public or private corporation, limited liability company, individual, partnership, association, any agency or instrumentality of the United States government, or other public or private entity, and includes any officer or governing or managing body of any municipality, political subdivision, or public or private corporation~~ includes any municipality, political subdivision, public or private corporation, limited liability company, individual, partnership, association, any agency or instrumentality of the United States government, or other public or private entity, and includes any officer or governing or managing body of any municipality, political subdivision, or public or private corporation such entity.
6. "Point source" means any discernible, confined, and discrete conveyance, including, ~~but not limited to,~~ any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which wastes are or may be discharged.
7. "Pollution" means the manmade or man-induced alteration of the physical, chemical, biological, or radiological integrity of any waters of the state.
8. "Sewerage system" means pipelines or conduits, pumping stations, and force mains, and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal.
9. "Treatment works" means any plant or other works used for the purpose of treating, stabilizing, or holding wastes.
10. "Wastes" means all substances which cause or tend to cause pollution of any waters of the state, including dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radiological materials, heat, wrecked or discarded equipment, rock, sand, and cellar dirt and industrial, municipal, and agricultural pollution discharged into any waters of the state.
11. "Waters of the state" means all waters within the jurisdiction of this state including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, and all other bodies or accumulations of water on or under the surface of the earth, natural or artificial, public or private, situated wholly or partly within or bordering upon the state, except those private waters ~~which that~~ do not combine or effect a junction with natural surface or underground waters just defined.

SECTION 3. AMENDMENT. Section 61-28-03 of the North Dakota Century Code is amended and reenacted as follows:

61-28-03. State water pollution prevention agency - Board.

1. ~~There is hereby created and established a~~ The state water pollution control board. ~~The board shall consist~~ consists of ten thirteen persons. It shall ~~The board must include the heads of the departments of state health officer, water conservation state engineer, director of the game and fish department, the state geologist, and six citizen~~ nine other members appointed by the governor, three of whom must be representatives of production agriculture, two of whom must be representatives of manufacturing and processing, one of whom must be a representative of the solid fuels industry, one of whom must be a representative of the fluid and gas fuels industry, one of whom must be a representative of the environmental sciences, and one of whom must be a representative of county or municipal government. Municipal, industrial, and wildlife interests shall each be represented by a citizen member. Agricultural interests shall be represented by three citizen members. The executive secretary of the board shall be the chief sanitary engineer of the department.
2. ~~Of the six~~ nine members appointed by the governor, each shall serve six-year terms, ~~except that of those four first appointed, two shall be appointed for three years, and two~~

~~shall be for six years.~~ The governor may fill any vacancy in the appointed membership of the board, and may remove any appointed member for cause.

3. The board shall select its own chairman from among its members. The heads of departments on the board may, by official order filed with the executive secretary of the board, designate a representative of the person's department to perform the duties of the member making the designation. ~~Such~~ That person, if any, ~~designated pursuant to this section,~~ shall have the powers and be subject to the duties and responsibilities of the appointing office.
4. All members of the board shall serve without compensation for their duties, but ~~shall~~ must be reimbursed for necessary travel and other expenses incurred in the performance of their official duties. Reimbursement ~~shall~~ must be paid out of funds allocated to the department for water pollution control.
5. The department shall provide the board with copies of maps, plans, documents, studies, surveys, and all other necessary information in order that the board may be fully cognizant of the current status of water pollution and its control in the state and to enable the board to advise the department in development of programs for the prevention and control of pollution of waters in the state.
6. The board shall hold at least one regular meeting each year, and any additional meetings the chairman deems necessary, at a time and place to be determined by the chairman. Upon written request of any three members the chairman shall call a special meeting. Seven members constitute a quorum.
7. The board shall consider and make recommendations regarding any rules and standards relating to water quality or pollution, ground water protection, and safe drinking of water that are adopted by the department. The department may not take final action on any rules or standards without consulting the board. The board shall consider any other matters related to the purposes of this chapter and may make recommendations on its own initiative to the department concerning the administration of this chapter.

SECTION 4. AMENDMENT. Section 61-28-05 of the North Dakota Century Code is amended and reenacted as follows:

61-28-05. Rules, ~~regulations,~~ and standards. The department may adopt rules ~~and regulations~~ and, jointly with the ~~state water pollution control~~ board, shall hold public hearings ~~to consider~~ regarding the adoption, amendment, or repeal of rules, ~~regulations,~~ and standards of quality of the waters of the state as provided in this chapter, ~~and notice of such public hearing or hearings shall be given by publication of a notice of such hearing or hearings in each of the official county newspapers within the state of North Dakota by at least two publications, one week apart, the last publication being at least ten days prior to said hearing and which hearing shall be held in the state capitol in Bismarek, at which hearings interested parties may present witnesses and other evidence pertinent and relevant to proposed rules, regulations, and standards, and the state water pollution control board shall consider any other matters related to the purposes of this chapter and shall advise the department concerning the administration of this chapter.~~

SECTION 5. AMENDMENT. Section 61-28-07 of the North Dakota Century Code is amended and reenacted as follows:

61-28-07. Proceedings. Any proceeding under this chapter for:

1. ~~Issuance~~ issuance or modification of rules ~~and regulations,~~ including emergency orders relating to control of water pollution; or
2. ~~Determining for determining~~ determining compliance with or violation ~~with the provisions~~ of this chapter, or adoption of any rule, ~~regulation,~~ or order ~~issued thereunder~~ under this chapter by the department;

~~shall, must~~ be conducted in accordance with ~~the provisions of~~ chapter 28-32 ~~and any~~. Any person claiming to be aggrieved or adversely affected by actions taken, or by any rule, ~~regulation~~, or order issued under this chapter may request a hearing by the department. There ~~shall be~~ is a right of appeal to the district court from any adverse ruling by the department. Where an emergency exists requiring immediate action to protect the quality of water for legitimate uses and the public health and welfare, the department ~~may~~, without further notice or hearing, may issue an order reciting the existence of ~~such the~~ emergency and requiring that such immediate action be taken as is necessary to meet this emergency. Notwithstanding ~~any provision of~~ this chapter, ~~such the~~ order ~~shall be~~ is effective immediately. Any person to whom ~~such the~~ order is directed shall comply ~~therewith~~ immediately, but on application to the department ~~shall must~~ be afforded a hearing before the department ~~and the state water pollution control board~~ within ten days. On the basis of ~~such that~~ hearing, the emergency order ~~shall must~~ be continued, modified, or revoked within thirty days after ~~such the~~ hearing. In the alternative, upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where ~~such the~~ endangerment to welfare is to the livelihood of ~~such those~~ persons, the department may bring suit on behalf of the state in the district court for the county in which the violation is taking place to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to ~~such the~~ pollution, or to take such other action as may be necessary.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1058.

House Vote: Yeas 69 Nays 26 Absent 2

Senate Vote: Yeas 38 Nays 8 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State