

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1158

S.P. 378

In Senate, March 4, 2003

### An Act To Protect Maine's Coastal Water

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Reference to the Committee on Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator BRENNAN of Cumberland.  
Cosponsored by Senators: BROMLEY of Cumberland, President DAGGETT of Kennebec,  
HALL of Lincoln, STRIMLING of Cumberland, TREAT of Kennebec, Representatives:  
COWGER of Hallowell, DUDLEY of Portland, McKEE of Wayne.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 38 MRSA c. 1, sub-c. 9** is enacted to read:

6 **SUBCHAPTER 9**

8 **COMMERCIAL PASSENGER VESSEL ENVIRONMENTAL COMPLIANCE**

10 **§331. Commercial passenger vessel environmental compliance**

12 This chapter establishes environmental standards for commercial passenger vessels to provide for:

14 1. Terms and conditions. The terms and conditions of vessel discharges;

16 2. Verification. Independent verification of environmental compliance; and

20 3. Monitoring and supervision. Allowing the department to monitor and supervise discharges from commercial passenger vessels through a registration system.

24 **§332. Definitions**

26 As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

28 1. Agent for service of process. "Agent for service of process" means an agent upon whom process, notice or demand required or permitted by law to be served upon the owner or operator may be served.

34 2. Coastal waters of the State. "Coastal waters of the State" means coastal waters as defined in Title 12, section 6001.

36 3. Commercial passenger vessel. "Commercial passenger vessel" means a vessel that carries passengers for hire except that "commercial passenger vessel" does not include a vessel that:

40 A. Is authorized to carry fewer than 50 passengers;

42 B. Does not provide overnight accommodations for at least 50 passengers for hire, determined with reference to the number of lower berths; or

44 C. Is operated by the United States or a foreign government.

2           **4. Discharge.** "Discharge" means any release, however  
4 caused, from a commercial passenger vessel, and includes any  
escape, disposal, spilling, leaking, pumping, emitting or  
emptying.

6           **5. Federal cruise ship regulations.** "Federal cruise ship  
8 regulations" means 33 Code of Federal Regulations, Part 159,  
Subpart E.

10          **6. Fund.** "Fund" means the Commercial Passenger Vessel  
12 Environmental Compliance Fund established under section 339-A.

14          **7. Gray water.** "Gray water" means wastewater from a  
galley, dishwasher, bath or laundry.

16          **8. Large commercial passenger vessel.** "Large commercial  
18 passenger vessel" means a commercial passenger vessel that  
provides overnight accommodations for 250 or more passengers for  
20 hire, determined with reference to the number of lower berths.

22          **9. Off-loading.** "Off-loading" means the removal of a  
24 hazardous substance, hazardous waste or nonhazardous solid waste  
from a commercial passenger vessel onto or into a controlled  
storage, processing or disposal facility or treatment works.

26          **10. Other wastewater.** "Other wastewater" means gray water  
28 or sewage that is stored in or transferred to a ballast tank or  
other holding area on the vessel that may not be customarily used  
30 for storing gray water or sewage.

32          **11. Passengers for hire.** "Passengers for hire" means  
34 vessel passengers for whom consideration is contributed as a  
condition of carriage on the vessel, whether directly or  
36 indirectly flowing to the owner, charterer, operator, agent or  
any other person having an interest in the vessel.

38          **12. Sewage.** "Sewage" means human body wastes and the  
40 wastes from toilets and other receptacles intended to receive or  
retain human body wastes.

42          **13. Small commercial passenger vessel.** "Small commercial  
44 passenger vessel" means a commercial passenger vessel that  
provides overnight accommodations for 249 or fewer passengers for  
hire, determined with reference to the number of lower berths.

46          **14. Treated sewage.** "Treated sewage" means sewage that  
48 meets all applicable effluent limitation standards and processing  
requirements of the federal Water Pollution Control Act of 1982,  
33 United States Code, Sections 1251 to 1376, as amended.

2 regulations adopted under 33 United States Code, Sections 1251 to  
3 1376 or under the federal cruise ship regulations.

4 15. Untreated sewage. "Untreated sewage" means sewage that  
5 is not treated sewage.

6  
7 16. Vessel. "Vessel" means any form or manner of  
8 watercraft, other than a seaplane on the water, whether or not  
9 capable of self-propulsion.

10  
11 17. Voyage. "Voyage" means a vessel trip to or from one or  
12 more ports of call in the State with the majority of the  
13 passengers for hire completing the entire vessel trip. A vessel  
14 trip involving stops at more than one port of call is considered  
15 a single voyage so long as the majority of passengers for hire  
16 complete the entire trip.

17 **§333. Registration requirements**

18  
19 1. Registration. Except as provided in section 339-C, each  
20 calendar year in which the owner or operator of a commercial  
21 passenger vessel intends to operate, or causes or allows to be  
22 operated, the vessel in the coastal waters of the State, the  
23 owner or operator of the vessel shall register with the  
24 department. The registration must be completed before the time  
25 any commercial passenger vessel of the owner or operator enters  
26 the coastal waters of the State in that calendar year. The  
27 registration must include the following information:

28  
29 A. The vessel owner's business name and, if different, the  
30 vessel operator's business name for each commercial  
31 passenger vessel of the owner or operator that is scheduled  
32 to be in the coastal waters of the State during the calendar  
33 year;

34  
35 B. The postal address, electronic mail address, telephone  
36 number and facsimile number for the principal place of each  
37 business identified under paragraph A;

38  
39 C. The name and address of an agent for service of process  
40 for each business identified under paragraph A. The owner  
41 and operator shall continuously maintain a designated agent  
42 for service of process whenever a commercial passenger  
43 vessel of the owner or operator is in the coastal waters of  
44 the State, and the agent must be an individual resident of  
45 this State, a domestic corporation or a foreign corporation  
46 having a place of business in and authorized to do business  
47 in this State;

2 D. The name or call sign of and port of registry for each  
3 of the owner's or operator's vessels that is scheduled  
4 either to call upon a port in this State or otherwise to be  
5 in the coastal waters of the State during the calendar year  
6 and after the date of registration; and

7 E. An agreement to comply with the terms and conditions of  
8 vessel discharges specified under section 334.

10 2. Under oath. Registration under subsection 1 must be  
11 executed under oath by the owner or operator.

12 3. Electronic submittal. Upon request of the department,  
13 the registrant shall submit registration information required  
14 under this section electronically.

16 **§334. Terms and conditions of discharges**

18 1. Requirement to comply with conditions. An owner or  
19 operator required to register under section 333 shall comply with  
20 either the standard terms and conditions of vessel discharges  
21 specified in subsection 2 or the alternative terms and conditions  
22 of vessel discharges specified in subsection 3.

24 2. Standard terms and conditions. The standard terms and  
25 conditions of vessel discharges are that the owner or operator:

28 A. May not discharge untreated sewage, treated sewage,  
29 gray water or other wastewater in a manner that violates  
30 section 335;

32 B. Shall maintain records and provide the reports required  
33 under section 336, subsection 1;

34 C. Shall collect and test samples as required under section  
35 336, subsections 2 and 4 and provide the reports with  
36 respect to those samples required by section 338, subsection  
37 3;

40 D. Shall report discharges in accordance with section 338,  
41 subsection 1;

42 E. Shall allow the department access to the vessel at the  
43 time samples are taken under section 336 for purposes of  
44 taking the samples or for purposes of verifying the  
45 integrity of the sampling process; and

48 F. Shall submit records, notices and reports to the  
49 department in accordance with section 338, subsections 2, 4  
50 and 5.

2           3. Alternative terms and conditions. The department may  
4           establish alternative terms and conditions of vessel discharges  
6           applicable to an owner or operator of a vessel who can not  
8           practicably comply with the standard terms and conditions of  
10           vessel discharges under subsection 2, or who wishes to use or  
12           test alternative environmental protection equipment or  
14           procedures. Except as specified in alternative terms and  
              conditions set by the department under this subsection, the  
              alternative terms and conditions of vessel discharges must  
              require compliance with the standard terms and conditions of  
              vessel discharges under subsection 2. The department, on a  
              case-by-case basis, may set alternative terms and conditions of  
              vessel discharges if:

16           A. The vessel owner or operator demonstrates to the  
18           department's reasonable satisfaction that equivalent  
20           environmental protection can be attained through other terms  
              or conditions appropriate for the specific configuration or  
              operation of the vessel;

22           B. The vessel owner or operator agrees to make necessary  
24           changes to the vessel to allow it to comply with the  
26           standard terms and conditions of vessel discharges under  
28           subsection 1 but demonstrates to the department's reasonable  
              satisfaction that additional time is needed to make the  
              necessary changes; or

30           C. An experimental technology or method for pollution  
32           control of a discharge is being used or is proposed as one  
34           of the alternative terms and conditions of vessel discharges  
              and the department determines that the experimental  
              technology or method has a reasonable likelihood of success  
              in providing increased protection for the environment.

36           4. Waiver. Alternative terms and conditions of vessel  
38           discharges approved by the department under subsection 3 may, if  
40           determined appropriate by the department, include a waiver by the  
42           department of portions of the requirements of sections 335 and  
              336, for the time period that the department determines to be  
              appropriate.

44           §335. Prohibited discharges; limitations on discharges

46           1. Untreated sewage. Except as provided in subsection 8, a  
48           person may not discharge untreated sewage from a commercial  
              passenger vessel into the coastal waters of the State.

50           2. Suspended solids; fecal coliform. Except as provided in  
              subsection 8 or under section 334, subsections 3 and 4, a person

2 may not discharge sewage from a commercial passenger vessel into  
3 the coastal waters of the State that has suspended solids greater  
4 than 150 milligrams per liter or a fecal coliform count greater  
5 than 200 colonies per 100 milliliters except that the department  
6 may by rule adopt a protocol for retesting for fecal coliform, if  
7 this discharge limit for fecal coliform is exceeded, under which  
8 a discharging vessel will be considered to be in compliance with  
9 the fecal coliform limit if the geometric mean of fecal coliform  
10 count in the samples considered under the protocol does not  
11 exceed 200 colonies per 100 milliliters. Upon submission by the  
12 owner or operator of a small commercial passenger vessel of a  
13 plan for interim protective measures, the department shall extend  
14 the time for compliance of that vessel with this subsection.

15 **3. Gray water.** Except as provided in subsection 8 or under  
16 section 334, subsections 3 and 4, a person may not discharge gray  
17 water or other wastewater from a commercial passenger vessel into  
18 the coastal waters of the State that has suspended solids greater  
19 than 150 milligrams per liter or a fecal coliform count greater  
20 than 200 colonies per 100 milliliters except that the department  
21 may by rule adopt a protocol for retesting for fecal coliform, if  
22 this discharge limit for fecal coliform is exceeded, under which  
23 a discharging vessel will be considered to be in compliance with  
24 the fecal coliform limit if the geometric mean of fecal coliform  
25 count in the samples considered under the protocol does not  
26 exceed 200 colonies per 100 milliliters. Upon submission by the  
27 owner or operator of a large commercial passenger vessel of a  
28 plan for interim protective measures, the department shall extend  
29 the time for compliance of that vessel with this subsection for a  
30 period of time that ends not later than January 1, 2005. Upon  
31 submission by the owner or operator of a small commercial  
32 passenger vessel of a plan for interim protective measures, the  
33 department shall extend the time for compliance of that vessel  
34 with this subsection.

35 **4. Standards for other parameters.** The department may by  
36 rule establish numeric or narrative standards other than those  
37 provided under subsections 2 and 3 for treated sewage, gray water  
38 and other wastewater discharged from commercial passenger  
39 vessels. In developing rules under this subsection, the  
40 department shall consider the best available scientific  
41 information on the environmental effects of the regulated  
42 discharges, the materials and substances handled on the vessels,  
43 vessel movement effects and the availability of new technologies  
44 for wastewater.

45 **5. Large commercial passenger vessels.** Except as provided  
46 in subsections 7 and 8 or under section 334, subsections 3 and 4,  
47 a person may not discharge any treated sewage, gray water or  
48 other wastewater from a large commercial passenger vessel into

2 other wastewater from a large commercial passenger vessel into  
3 the coastal waters of the State unless:

4 A. The vessel is underway and proceeding at a speed of not  
5 less than 6 knots;

6  
7 B. The vessel is at least one nautical mile from the  
8 nearest shore, except in areas that are within one nautical  
9 mile and are designated by the department for discharge  
10 release;

11 C. The discharge complies with all applicable vessel  
12 effluent standards established under the federal cruise ship  
13 regulations and any other applicable law; the standards  
14 under the federal cruise ship regulations and other  
15 applicable law may be adopted by rule by the department; and

16  
17 D. The vessel is not in an area where the discharge of  
18 treated sewage, gray water or other wastewater is prohibited.

19  
20 6. Exception to discharge limitations. Under certain  
21 circumstances, the department may adopt rules allowing the  
22 discharge of treated sewage or gray water, otherwise prohibited  
23 under subsection 5, paragraphs A and B.

24  
25 A. The department may adopt rules allowing the discharge of  
26 treated sewage or gray water, otherwise prohibited under  
27 subsection 5, paragraphs A and B, where the discharge meets  
28 effluent standards determined by the department as  
29 appropriate for discharges into the coastal environment. In  
30 adopting the rules, the department shall take into account  
31 the best available scientific information on the  
32 environmental effects of the regulated discharges. The  
33 effluent discharge standards adopted under this section  
34 must, at a minimum, be consistent with all relevant state  
35 water quality standards.

36  
37 B. Until such time as the department adopts rules under  
38 paragraph A, treated sewage and gray water may be discharged  
39 from vessels subject to this subchapter in circumstances  
40 otherwise prohibited under subsection 5, paragraphs A and B,  
41 as long as:

42  
43 (1) The discharge satisfies the minimum level of  
44 effluent quality specified in 40 Code of Federal  
45 Regulations Section 133.102;

46  
47 (2) The geometric mean of the samples from the  
48 discharge during any 30-day period does not exceed 20  
49 fecal coliform per 100 milliliters and not more than 10  
50

2                   % of the samples exceed 40 fecal coliform per 100  
3                   milliliters;

4                   (3) Concentrations of total residual chlorine do not  
5                   exceed 10 milligrams per liter; and

6                   (4) Prior to any such discharge occurring, the owner  
7                   or operator of a commercial passenger vessel can  
8                   demonstrate test results from at least 5 samples taken  
9                   from the vessel representative of the effluent to be  
10                   discharged, on different days over a 30-day period,  
11                   conducted in accordance with the guidelines promulgated  
12                   in 40 Code of Federal Regulations Part 136, which  
13                   confirm that the water quality of the effluents  
14                   proposed for discharge is in compliance with  
15                   subparagraphs (1), (2) and (3). The owner or operator  
16                   of a commercial passenger vessel shall demonstrate  
17                   continued compliance with this paragraph through  
18                   periodic sampling. The records of such sampling and  
19                   test results must be made available for inspection by  
20                   the department.

21                   7. Sewage discharge from small vessels. Except as provided  
22                   in subsection 8, a person may not discharge sewage from a small  
23                   commercial passenger vessel unless the sewage has been processed  
24                   through a properly operated and properly maintained marine  
25                   sanitation device.

26                   8. Safety purpose. The provisions of subsections 1 to 7 do  
27                   not apply to discharges made for the purpose of securing the  
28                   safety of the commercial passenger vessel or saving life at sea  
29                   if all reasonable precautions have been taken for the purpose of  
30                   preventing or minimizing the discharge.

31                   **§336. Information-gathering requirements**

32                   1. Dates; times; locations; volumes or flow rates. Except  
33                   as provided under section 334, subsections 3 and 4, the owner or  
34                   operator of a commercial passenger vessel shall maintain records  
35                   and, upon request of the department, provide to the department a  
36                   report, with copies of the records related to the period of  
37                   operation in the coastal waters of the State, detailing the  
38                   dates, times and locations and the volumes or flow-rates of any  
39                   discharge of sewage, gray water or other wastewater into the  
40                   coastal waters of the State.

41                   2. Routine samples. Except as provided under section 334,  
42                   subsections 3 and 4, while a commercial passenger vessel is  
43                   present in the coastal waters of the State, the owner or operator  
44                   of the vessel shall collect routine samples of the vessel's  
45                   treated sewage, gray water and other wastewater being discharged

2 into the coastal waters of the State with a sampling technique  
3 approved by the department before the sample is collected. The  
4 number of routine samples for each vessel to be collected under  
5 this subsection must be the greater of 2 per calendar year or the  
6 number of samples required to be collected under federal law and  
7 regulations for sewage, gray water or other wastewater discharges.

8 **3. Additional samples.** Except as provided under section  
9 334, subsections 3 and 4, while a commercial passenger vessel is  
10 present in the coastal waters of the State, the department or an  
11 independent contractor retained by the department may collect  
12 additional samples of the vessel's treated sewage, gray water and  
13 other wastewater being discharged into the coastal waters of the  
14 State.

15 **4. Sample testing.** Except as provided under section 334,  
16 subsections 3 and 4, the owner or operator of a vessel required  
17 to collect samples under subsection 2 shall have the samples  
18 tested to measure fecal coliform, ammonia, residual chlorine,  
19 degree of acidity or alkalinity, chemical oxygen demand,  
20 biochemical oxygen demand, total suspended solids and other  
21 factors as required by the department in the samples with an  
22 analytical testing method that was approved by the department  
23 before the testing is conducted. A laboratory used for testing  
24 under this subsection may not disclose the testing results to any  
25 person other than to the department, the United States Coast  
26 Guard or the owner or operator of the vessel.

27 **5. Payment for sampling.** The owner or operator of a  
28 commercial passenger vessel shall pay for all routine sampling  
29 under subsection 2 and the testing of routine samples. The  
30 department shall pay for all additional sampling under subsection  
31 3 and the testing of the additional samples.

32 **6. Information-gathering required by other laws.** If the  
33 owner or operator of a commercial passenger vessel has, when  
34 complying with another state or federal law that requires  
35 substantially equivalent information-gathering, gathered the type  
36 of information required under subsection 1, 2 or 4, the owner or  
37 operator is considered to be in compliance with that subsection  
38 as long as the information is also provided to the department.

39 **§337. Record-keeping requirements**

40 An owner or operator subject to section 336 shall record the  
41 information required to be gathered under that section and shall  
42 maintain the records for 3 years after the date the information  
43 was gathered.

44 **§338. Reporting requirements**

2           1. Discharge. An owner or operator of a commercial  
passenger vessel who becomes aware of a discharge that is in  
4 violation of section 335 shall immediately report that discharge  
to the department.

6  
8           2. Records required by Federal Government. If the owner or  
operator of a commercial passenger vessel operating in the  
10 coastal waters of the State is required by the Administrator of  
the United States Environmental Protection Agency or the  
12 secretary of the federal department in which the United States  
Coast Guard is operating to collect samples and test sewage, gray  
14 water or other wastewater and keep records of the sampling and  
testing, the owner or operator shall, within 21 days after the  
sewage, gray water or other wastewater is tested, submit to the  
16 department a copy of the records.

18           3. Sampling report. Within 21 days after the testing  
required under section 336, subsection 4, the owner or operator  
20 shall submit a written report to the department that contains the  
measurements required under section 336, subsection 4 and  
22 describes the sampling technique and analytical testing methods  
used. The information in the report required under this  
24 subsection may be provided by referring to, and including copies  
of, other reports that are required by substantially equivalent  
26 state or federal reporting requirements.

28           4. Hazardous waste discharge. If the owner or operator of  
a commercial passenger vessel operating in the coastal waters of  
30 the State is required by the laws of the United States or by the  
laws of Canada or of a province or territory of Canada to file a  
32 report or provide notice of a discharge or off-loading of a  
hazardous waste or of a hazardous substance that was generated,  
34 discharged or off-loaded while the vessel was operating in the  
coastal waters of the State, the owner or operator shall submit  
36 to the department a copy of the report or notice within 21 days  
after having provided the report or notice to an agency of the  
38 government of the United States or to an agency of the government  
of Canada or of a province or territory of Canada.

40           5. Policy and procedure plan. Before the operation of a  
42 commercial passenger vessel in the coastal waters of the State,  
the owner or operator of the vessel shall provide to the  
44 department a plan that describes the vessel's policies and  
procedures for:

46           A. Off-loading in this State or disposing into the coastal  
48 waters of the State nonhazardous solid waste other than  
sewage; and  
50

2           B. Off-loading hazardous waste or a hazardous substance  
3           from the vessel while it is operating in the coastal waters  
4           of the State to the extent that the off-loading is not  
5           covered by subsection 4.

6           5. Electronic submittal. Upon request of the department,  
7           the information required under this section must be submitted  
8           electronically.

10           7. Other reporting requirements. This section does not  
11           relieve the owner or operator of a commercial passenger vessel  
12           from other applicable reporting requirements of state or federal  
13           law.

14           **§339. Fees**

16           There is imposed an environmental compliance fee on each  
17           commercial passenger vessel operating in the coastal waters of  
18           the State.

20           1. Separate fee. The fee imposed by this section for all  
21           commercial passenger vessels, other than vessels operated by the  
22           State, is a separate fee for each voyage during which the  
23           commercial passenger vessel operates in the coastal waters of the  
24           State.

26           2. Fee range. The fee imposed by this section is based on  
27           the overnight accommodation capacity of the vessel, determined  
28           with reference to the number of lower berths. The fee is for a  
29           commercial passenger vessel with overnight accommodations:

32           A. For at least 50 but not more than 99 passengers for  
33           hire, \$75;

34           B. For at least 100 but not more than 249 passengers for  
35           hire, \$175;

36           C. For at least 250 but not more than 499 passengers for  
37           hire, \$375;

38           D. For at least 500 but not more than 999 passengers for  
39           hire, \$750;

40           E. For at least 1,000 but not more than 1,499 passengers  
41           for hire, \$1,250;

42           F. For at least 1,500 but not more than 1,999 passengers  
43           for hire, \$1,750;

2 G. For at least 2,000 but not more than 2,499 passengers  
for hire, \$2,250;

4 H. For at least 2,500 but not more than 2,999 passengers  
for hire, \$2,750;

6 I. For at least 3,000 but not more than 3,499 passengers  
8 for hire, \$3,250; and

10 J. For 3,500 or more passengers for hire, \$3,750.

12 3. State-operated vessel. The fee imposed by this section  
14 for a commercial passenger vessel that is operated by this State  
must be determined by agreement between the commissioner and the  
16 Commissioner of Transportation.

18 4. Time and manner of payment. A commercial passenger  
vessel operating in the coastal waters of the State is liable for  
20 the fee imposed by this section. The fee is due and payable to  
the department in the manner and at the times required by the  
22 department by rule.

24 **§339-A. Commercial Passenger Vessel Environmental Compliance**  
**Fund**

26 1. Creation. The Commercial Passenger Vessel Environmental  
28 Compliance Fund is created in the General Fund.

30 2. Sources of fund. The fund consists of the following,  
all of which must be deposited in the fund upon receipt:

32 A. Money received by the department in payment of fees  
34 under section 339;

36 B. Money received under section 339-F as a result of a  
violation related to this subchapter;

38 C. Money appropriated to the fund by the Legislature; and

40 D. Earnings on the fund.

42 3. Appropriations from fund. The Legislature may make  
44 appropriations from the fund to the department to pay for the  
department's operational costs necessary to prepare reports that  
46 assess the information received by the department for the years  
2004, 2005, 2006 and 2007 and for the department's operational  
48 costs necessary to carry out activities under this subchapter  
relating to commercial passenger vessels.

2 4. Unexpended balance. The unexpended and unobligated  
balance of an appropriation made from the fund to the department  
4 for the purposes described in subsection 3 lapses into the fund  
on December 31st following the end of the period for which the  
appropriation was made.

6  
8 5. No creation of dedicated fund. Nothing in this section  
creates a dedicated fund.

10 **§339-B. Recognition**

12 The department may engage in efforts to encourage and  
14 recognize superior environmental protection efforts made by the  
owners or operators of commercial passenger vessels that exceed  
the requirements established by law.

16  
18 **§339-C. Exemption for vessels in innocent passage**

20 This subchapter does not apply to a commercial passenger  
vessel that operates in the coastal waters of the State solely in  
innocent passage. For purposes of this section, a vessel is  
22 engaged in innocent passage if its operation in coastal waters of  
the State, regardless of whether the vessel is a United States or  
24 foreign-flag vessel, would constitute innocent passage under the:

26 1. Convention on the Territorial Sea and the Contiguous  
Zone. Convention on the Territorial Sea and the Contiguous Zone,  
28 April 29, 1958, 15 U.S.T. 1606; or

30 2. United Nations Convention on the Law of the Sea 1982.  
United Nations Convention on the Law of the Sea 1982, December  
32 10, 1982, UNDOC A/Conf. 62.122, 21 I.L.M. 1261 (1982), were the  
vessel a foreign-flag vessel.

34  
36 **§339-D. Activities of department**

38 The department may engage in the following activities  
relating to commercial passenger vessels operating in the coastal  
waters of the State:

40  
42 1. In-water monitoring. Direct in-water monitoring of  
discharges or releases of sewage, gray water and other wastewater  
and direct monitoring of the opacity of air emissions from those  
44 vessels;

46 2. Environmental effects. Monitoring and studying of  
direct or indirect environmental effects of those vessels; and

48  
50 3. Research. Researching ways to reduce effects of the  
vessels on coastal waters and other coastal resources.

2       **§339-E. Rules**

4           The department may adopt rules to carry out the purposes of  
6       this subchapter. Rules adopted pursuant to this subchapter are  
8       routine technical rules as defined in Title 5, chapter 375,  
10       subchapter 2-A.

12       **§339-F. Penalty**

14           A person who violates or causes or permits to be violated a  
16       provision of this subchapter or a rule or order of the  
18       department, or a registration, or term or condition of a  
20       registration issued under this subchapter is subject to a civil  
22       penalty of not less than \$500 nor more than \$100,000 for the  
24       initial violation, nor more than \$10,000 for each day after that  
26       on which the violation continues, payable to the State. This  
28       penalty is recoverable in a civil action. The penalty must  
30       reflect, when applicable:

32           1. **Liquidated damages.** Reasonable compensation in the  
34       nature of liquidated damages for any adverse environmental  
36       effects caused by the violation, that must be determined by the  
38       court according to the toxicity, degradability and dispersal  
40       characteristics of the substance discharged, the sensitivity of  
42       the receiving environment and the degree to which the discharge  
44       degrades existing environmental quality. For a violation of  
46       section 335, the court, in making its determination under this  
48       subsection, must also consider the volume of the gray water,  
50       sewage or other wastewater discharged. This subsection may not  
      be construed to limit the right of parties other than the State  
      to recover for personal injuries or damage to their property;

2. **Reasonable costs.** Reasonable costs incurred by the  
      State in detection, investigation and attempted correction of the  
      violation;

3. **Economic savings.** The economic savings realized by the  
      person in not complying with the requirement for which a  
      violation is charged. As used in this subsection, "economic  
      savings" means that sum a person would be required to expend for  
      the planning, acquisition, siting, construction, installation and  
      operation of facilities necessary to effect compliance with the  
      requirement violated; and

4. **Enhanced penalty.** The need for an enhanced civil  
      penalty to deter future noncompliance.

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## SUMMARY

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This bill establishes commercial passenger vessel environmental compliance standards to provide for the terms and conditions of vessel discharges and monitoring and supervision of discharges from commercial passenger vessels through a registration system.

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