



H.B. 235

127th General Assembly
(As Introduced)

Reps. Oelslager, Dyer, J. McGregor, Foley, Chandler, B. Williams, Hughes, Stebelton, Hottinger, Koziura, Evans, Patton, Healy, Wolpert, Okey, Peterson, Strahorn, R. Hagan, Brinkman, Harwood

BILL SUMMARY

- Requires persons that are responsible for the direct or indirect discharge of partially treated sewage, defined to include untreated sewage, onto land or into the waters of the state to provide notification of the discharge to the Director of Environmental Protection, each applicable board of health, at least one radio station and one television station that broadcasts in each county where the discharge occurred or is occurring, a newspaper of general circulation in each county where the discharge occurred or is occurring, and persons who have requested notification concerning discharges under the bill by registering with the Environmental Protection Agency.
- Establishes requirements regarding what must be included in such a notification.
- Establishes additional notification requirements applicable to counties, municipal corporations, and other political subdivisions that are responsible for combined sewage systems or sewerage systems from which discharges occur, including requirements governing the posting of signs notifying the public of a direct or indirect discharge of partially treated sewage.
- Requires the Director, upon the receipt of notification and a statement under the bill, to post the notification and statement on the Environmental Protection Agency's web site and notify the Agency's Public Interest Center of the receipt and posting of the notification and statement.

- Requires the Director to post on the Agency's web site a map that shows the location of every discharge of partially treated sewage from each system in the state and to post a history of discharges of partially treated sewage from each system in the state.
- Specifies other information that must be included on the Agency's web site regarding discharges of partially treated sewage.
- Requires the Director to disseminate to the person that is responsible for each system in the state the applicable registration information of a person who has registered on the Agency's web site under the bill to receive notification of discharges of partially treated sewage, ensure that the Agency's Public Interest Center provides certain pertinent information to persons contacting the Center, and issue an annual report regarding discharges of partially treated sewage occurring in Ohio.
- Requires the Director to adopt rules governing the dissemination of the Agency's Public Interest Center's telephone number, electronic notification registration, annual reports of direct and indirect discharges of partially treated sewage, and the establishment of a public interest telephone line by a person who is responsible for a system, and establishing any other criteria, guidelines, and procedures that the Director determines are necessary to administer the bill.
- Establishes water testing requirements that generally apply after a discharge of partially treated sewage into the waters of this state occurs.
- Requires a person that is responsible for a discharge of partially treated sewage to include notification of the discharge with each bill that is submitted to the person's customers between May 1 and October 15.
- Authorizes a person that is responsible for the discharge of partially treated sewage or the Director to purchase advertisements or public service announcements to disseminate sewage discharge information.
- Requires persons that are responsible for systems that may discharge partially treated sewage into the waters of the state to annually inform each municipal corporation within whose geographical boundaries are located waters that may be affected by a discharge of the option to receive a notification of the discharge.

CONTENT AND OPERATION

Notifications of sewage discharges

Ohio's Water Pollution Control Law prohibits the discharge of partially treated sewage and untreated sewage. However, that Law does not establish any specific notification procedures should such a discharge take place. According to the Environmental Protection Agency, individual national pollutant discharge elimination system (NPDES) permits may contain certain notification requirements, and the Agency may enter into consent decrees that establish notification requirements with persons discharging partially treated or untreated sewage. However, there are no statewide statutory requirements governing notification.

The bill provides that not later than 24 hours after the direct or indirect discharge of partially treated sewage onto land or into the waters of the state¹ begins, the person that is responsible for the system from which the discharge occurred or is occurring must notify the Director of Environmental Protection, each applicable board of health, at least one radio station and one television station that broadcasts in each county where the discharge occurred or is occurring, a newspaper of general circulation in each county where the discharge occurred or is occurring, and any other person that has requested notification by registering on the Environmental Protection Agency's web site (see below) (sec. 6111.051(B)(1)). Under the bill, "partially treated sewage" means any treated or untreated sewage from a combined sewage system or a sewerage system that satisfies at least one of the following:

- (1) The sewage has not undergone primary and secondary treatment;
- (2) The sewage is discharged from a combined sewage system or a sewerage system; or
- (3) The sewage is located on the surface of the land (sec. 6111.051(A)(1)).

¹ Under current law, "waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata in which underground water is located, that are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters (sec. 6111.01(H), not in the bill).

"System" is defined by the bill to mean a combined sewage system or a sewerage system. "Combined sewage system" is defined to mean a system that conveys sewage in dry weather to a treatment works and that conveys sewage and storm water during wet weather to a treatment works or a combined sewage overflow relief point that is specifically authorized by a NPDES permit issued under the Water Pollution Control Law. Finally, the bill defines "storm water" to mean storm water runoff, snow melt runoff, and surface runoff and drainage. (Sec. 6111.051(A)(4), (2), and (3).)

The notification required by the bill must include a statement by telephone, by electronic means, or in another manner required by the Director that a discharge occurred or is occurring, the number for the person's public interest telephone line that is required in rules adopted under the bill (see below), a statement explaining the general health effects from exposure to partially treated sewage and general actions that a person may take to avoid such exposure, and the location of the outfall and the location of the land, water, or both that received the discharge. The notification requirement does not preclude a person that is responsible for a system from providing the notification that is required by the bill if the person anticipates that a direct or indirect discharge of partially treated sewage onto land or into waters of the state may occur. (Sec. 6111.051(B)(1).) Not later than 24 hours after the direct or indirect discharge of partially treated sewage onto land or into the waters of the state begins, the person that is responsible for the system from which the discharge occurred or is occurring must post on the person's public interest telephone number the information that is required in rules adopted under the bill (see below) (sec. 6111.051(B)(2)).

Not later than the fifth day of each month, the person that is responsible for the system from which the discharge occurred must submit to the Director, each applicable board of health, and each radio station, television station, and newspaper to which the notification discussed above was submitted a statement in writing or in another manner required by the Director that contains all of the following:

- (1) The estimated volume and quality of each discharge that occurred in the previous month;
- (2) The reason for the discharge;
- (3) The location of the outfall and the location of the land, water, or both that received the discharge;
- (4) The times that the discharge began and ended as determined using procedures approved by the Director;

(5) A verification of compliance with the requirements of the person's NPDES permit and applicable state and federal statutes and regulations; and

(6) An explanation of the general health effects from exposure to partially treated sewage and general actions that a person may take to avoid such exposure (sec. 6111.051(B)(3)).

Requirements pertaining to local governments

Under the bill, if the person that is responsible for a system from which a discharge occurred or is occurring is a county, municipal corporation, or other political subdivision (local government) that maintains a web site, the local government must post on the web site the information that the bill requires dischargers to submit each month as discussed above and the telephone number of the Environmental Protection Agency's Public Interest Center. In addition, the local government must post a map that shows the location of every outfall of the system for which the local government is responsible and a history of the discharges from the system. The bill requires the information to be maintained on the web site so that it continues to be accessible to the public. (Sec. 6111.051(F)(1).)

Further, a local government that is responsible for a system from which a discharge occurred or is occurring must post a prominent sign within the territorial boundaries of the county or municipal corporation, or other political subdivision, as applicable, at each public access point to affected water, including, but not limited to, beaches and recreational swimming areas, boat ramps, bridges, parks, and school yards, and on land that is adjacent to affected water at locations that are determined by the local government to be most likely to provide notice to persons who may come into direct contact with the affected water. However, if an access point to, or land that is adjacent to, affected water is located on private property or on property that is outside the territorial boundaries of the county, municipal corporation, or other political subdivision, as applicable, the local government must offer to provide the sign to the owner of the private property or to the political subdivision within whose territorial boundaries the access point or land is located. The sign must contain the following language or language that is equivalent in meaning: "Caution--Sewage Pollution. Sewage or wastewater may be in this water during and for several days after periods of rainfall or snow melt. People who swim in, wade in, or ingest this water may become sick. For more information, please contact [name, telephone number, and, if available, web site address of the person responsible for the system] or call the Ohio Environmental Protection Agency's Public Interest Center [telephone number of the Public Interest Center]." (Sec. 6111.051(F)(2) and (3).)

Requirements pertaining to Director of Environmental Protection

Under the bill, when the Director of Environmental Protection receives notification of and a statement concerning a direct or indirect discharge of partially treated sewage onto land or into the waters of the state, the Director must post the notification and the statement on the Environmental Protection Agency's web site and notify the Agency's Public Interest Center of the receipt and posting of the notification and the statement (sec. 6111.051(C)).

The bill requires the Director to post on the Agency's web site a map that shows the location of every discharge of partially treated sewage from each system in the state. In addition, the Director must post on the web site a history of discharges of partially treated sewage from each system in the state. The web site also must contain all of the following information:

- (1) The web site address of the person that is responsible for each system in Ohio, if applicable;
- (2) The telephone number of the person that is responsible for each system in Ohio;
- (3) The name of an individual who is authorized by the person that is responsible for each system in Ohio to respond to inquiries;
- (4) The long-term control plans for each system in the state that are required by the Water Pollution Control Law and rules adopted under it;
- (5) A copy of the NPDES permit of the person that is responsible for each system in the state and the current status of the permit; and
- (6) Contact information for each applicable board of health within whose jurisdiction a system is located. (Sec. 6111.051(D)(1).)

The bill also requires the Director to disseminate to the person that is responsible for each system in the state the applicable registration information of a person who has registered to receive notification in accordance with rules adopted under the bill (see below) (sec. 6111.051(D)(2)). Further, the Director must ensure that the Environmental Protection Agency's Public Interest Center provides to a person that contacts the Center the applicable telephone number of the person that is responsible for a system and assistance in locating sewage discharge information on the Agency's web site, including recent discharges and the general health effects from exposure to partially treated sewage and general actions that a person may take to avoid such exposure. In addition, the Public Interest Center

telephone line must allow a person calling the number to leave a message before and after normal business hours. (Sec. 6111.051(D)(3).) Finally, the Director must issue an annual report that compiles all of the annual reports submitted by persons that are responsible for systems in Ohio that are submitted in accordance with rules adopted under the bill (see below) (sec. 6111.051(D)(4)).

Under the bill, the Director must adopt rules in accordance with the Administrative Procedure Act that do all of the following:

(1) Establish procedures to disseminate the Environmental Protection Agency's Public Interest Center's telephone number in a manner that effectively informs the public;

(2) Establish electronic notification registration for persons that wish to be kept informed when notifications of direct or indirect discharges of partially treated sewage are submitted under the bill. The rules must allow a person to register on the Agency's web site, or to register using another method that is acceptable to the Director, to receive notification.

(3) Require a person that is responsible for a system to prepare an annual report that includes the number and volume of each direct and indirect discharge of partially treated sewage from the system onto land or into the waters of the state. The rules must prescribe the form of the annual report and the method by which a report may be submitted, which may include electronic transmission of the required information.

(4) Require a person that is responsible for a system to establish a public interest telephone line. The telephone line must be approved by the Director and must provide a statement that a discharge occurred or is occurring, a statement explaining the general health effects from exposure to partially treated sewage and general actions that a person may take to avoid such exposure, and the location of the outfall and of the land, water, or both that received the discharge. The telephone line also must provide the web site address of the person that is responsible for the system or of the Environmental Protection Agency, an opportunity for a person calling the public interest telephone line to speak to the person that is responsible for the system or an authorized representative of that person during normal business hours, an opportunity for a person calling the public interest telephone line to leave a message requesting additional information, and an opportunity for a person calling the public interest telephone line to leave a message asking to receive notification of future discharges from the system.

(5) Establish any other criteria, guidelines, and procedures that the Director determines are necessary to administer the bill. (Sec. 6111.051(E).)

Water quality testing

Under the bill, except as discussed below, if a discharge of partially treated sewage into the waters of this state occurs, the person that is responsible for the system from which the discharge occurred must test the impacted waters for the presence of partially treated sewage using e. coli or another more accurate indicator of partially treated sewage that is approved by the Director and report the findings to each applicable board of health and the Director. Each applicable board of health must specify the location or locations of the testing. However, the number of test locations for a discharge cannot exceed ten. (Sec. 6111.051(G)(1).)

If a discharge of partially treated sewage into the waters of the state occurs and the applicable board of health determines that the tests required under the bill are not necessary to assess the risk of the discharge to public health, the board must notify the person that is responsible for the system from which the discharge occurred of the board's determination, and the person need not perform the tests required by the bill (sec. 6111.051(G)(2)). Further, if a discharge of partially treated sewage onto land or into the waters of the state occurs, the person that is responsible for the system from which the discharge occurred must include educational information with each bill that the person submits to the person's customers from May 1 to October 15 of the year in which the discharge occurred. The educational information must include all of the following:

- (1) An explanation of the general health effects from exposure to partially treated sewage and general actions that a person may take to avoid such exposure;
- (2) The location of every discharge and the date on which each discharge occurred; and
- (3) The number of the person's public interest telephone line that is required in rules adopted under the bill and of the Environmental Protection Agency's Public Interest Center. (Sec. 6111.051(G)(3).)

Public service announcements

Under the bill, a person that is responsible for the discharge of partially treated sewage or the Director of Environmental Protection may purchase advertisements or public service announcements to disseminate sewage discharge information (sec. 6111.051(H)).

Annual notification of municipal corporations

The bill requires a person that is responsible for a system that may discharge partially treated sewage into the waters of the state to annually inform each municipal corporation within whose geographical boundaries are located

waters that may be affected by a discharge of the option to receive a notification and a statement in the manner provided under the bill. If such a municipal corporation provides a written request to receive notification, the person that is responsible for a system must provide a notification and a statement to the municipal corporation that contains the information specified in the bill's notification requirements. (Sec. 6111.051(I).)

Miscellaneous provisions

The bill states that its provisions regarding actions that are required of the Director, notifications by local governments, water quality testing, and annual notification of municipal corporations do not apply to discharges of partially treated sewage into ground water (sec. 6111.051(J)). Further, the bill states that it does not authorize the discharge of partially treated sewage onto land or into the waters of the state or limit any person from bringing legal action under the Water Pollution Control Law and rules adopted under it (sec. 6111.051(K)).

Penalties

Under the Water Pollution Control Law, anyone who violates certain provisions related to the issuance of permits and the discharge of wastes into the waters of the state must pay a civil penalty of not more than \$10,000 per day of violation. In addition, a violator is subject to a criminal penalty of not more than \$25,000 or imprisonment for not more than one year, or both. (Secs. 6111.07, 6111.09, and 6111.99, not in the bill.) Because the bill's provisions are located in the relevant portion of that Law, the civil and criminal penalties apply to violators of the bill's requirements. Current law governing the investigation of violations and the issuance of injunctions also applies to the bill's provisions (secs. 6111.05 and 6111.07, not in the bill).

HISTORY

ACTION	DATE
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