

115TH CONGRESS  
2D SESSION

# S. 3630

To amend the Federal Water Pollution Control Act to prohibit sewage dumping into the Great Lakes, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2018

Ms. DUCKWORTH (for herself and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Federal Water Pollution Control Act to prohibit sewage dumping into the Great Lakes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Great Lakes Water  
5 Protection Act”.

6 **SEC. 2. RESTRICTION ON WASTEWATER RELEASES INTO**  
7 **THE GREAT LAKES SYSTEM.**

8 (a) IN GENERAL.—

1           (1) RESTRICTION.—Section 402 of the Federal  
2           Water Pollution Control Act (33 U.S.C. 1342) is  
3           amended by adding at the end the following:

4           “(s) RESTRICTION ON WASTEWATER RELEASES  
5 INTO THE GREAT LAKES SYSTEM.—

6           “(1) DEFINITIONS.—In this subsection:

7                   “(A) BYPASS.—The term ‘bypass’ means,  
8                   with respect to a treatment facility that dis-  
9                   charges into the Great Lakes System, an inten-  
10                  tional diversion of waste streams from any por-  
11                  tion of the treatment facility.

12                   “(B) GREAT LAKES SYSTEM.—The term  
13                   ‘Great Lakes System’ has the meaning given  
14                   the term in section 118(a)(3).

15                   “(C) TREATMENT FACILITY.—The term  
16                   ‘treatment facility’ includes all wastewater  
17                   treatment units used by a publicly owned treat-  
18                   ment works to meet secondary treatment stand-  
19                   ards or higher, as required to attain water qual-  
20                   ity standards, under any operating conditions.

21                   “(D) TREATMENT WORKS.—The term  
22                   ‘treatment works’ has the meaning given the  
23                   term in section 212.

24                   “(2) RESTRICTION.—A publicly owned treat-  
25                   ment works that discharges into the Great Lakes

1 System is prohibited from performing a bypass un-  
2 less—

3 “(A)(i) the bypass is unavoidable to pre-  
4 vent loss of life, personal injury, or severe prop-  
5 erty damage;

6 “(ii) there is not a feasible alternative to  
7 the bypass, such as the use of auxiliary treat-  
8 ment facilities, retention of untreated wastes, or  
9 maintenance during normal periods of equip-  
10 ment downtime; and

11 “(iii) the treatment works provides notice  
12 of the bypass in accordance with paragraph (4);  
13 or

14 “(B) the bypass—

15 “(i) does not cause effluent limitations  
16 to be exceeded; and

17 “(ii) is for essential maintenance to  
18 ensure efficient operation of the treatment  
19 facility.

20 “(3) LIMITATION.—The requirement of para-  
21 graph (2)(A)(ii) is not satisfied if—

22 “(A) adequate back-up equipment should  
23 have been installed in the exercise of reasonable  
24 engineering judgment to prevent the bypass;  
25 and

1           “(B) the bypass occurred during normal  
2 periods of equipment downtime or preventive  
3 maintenance.

4           “(4) IMMEDIATE NOTICE REQUIREMENTS.—

5           “(A) IN GENERAL.—The Administrator  
6 shall work with States having publicly owned  
7 treatment works subject to paragraph (2) to  
8 create immediate notice requirements in the  
9 event of a bypass or a combined sewer overflow  
10 that provide for the method, contents, and re-  
11 quirements for public availability of the notice.

12           “(B) MINIMUM INITIAL NOTICE REQUIRE-  
13 MENTS.—At a minimum, the contents of the  
14 immediate notice under subparagraph (A) shall  
15 include—

16           “(i) the exact dates and times of the  
17 bypass or combined sewer overflow;

18           “(ii) the volume of the bypass or com-  
19 bined sewer overflow; and

20           “(iii) a description of any public ac-  
21 cess areas impacted.

22           “(C) ADDITIONAL REQUIREMENTS.—The  
23 Administrator and States described in subpara-  
24 graph (A) shall—

1 “(i) ensure that the minimum require-  
2 ments under subparagraph (B) are con-  
3 sistent for all those States;

4 “(ii) establish follow-up notice require-  
5 ments that provide a full description of  
6 each event (including water quality data),  
7 the cause, and plans to prevent reoccur-  
8 rence; and

9 “(iii) establish requirements for mak-  
10 ing publicly available, including on the  
11 website of the Administrator, a list of each  
12 treatment works from which the Adminis-  
13 trator or the State received a follow-up no-  
14 tice, along with the information required  
15 under clause (ii) for each event that re-  
16 quired a follow-up notice.

17 “(5) IMPLEMENTATION.—Not later than 2  
18 years after the date of enactment of this subsection,  
19 the Administrator shall establish procedures to im-  
20 plement this subsection.”.

21 (2) CONFORMING AMENDMENT.—Section 425  
22 of division G of the Consolidated Appropriations Act,  
23 2016 (Public Law 114–113; 33 U.S.C. 1268 note)  
24 is repealed.

25 (b) GREAT LAKES CLEANUP FUND.—

1           (1) ESTABLISHMENT.—Title V of the Federal  
2           Water Pollution Control Act (33 U.S.C. 1361 et  
3           seq.) is amended—

4                   (A) by redesignating section 519 (33  
5           U.S.C. 1251 note) as section 520; and

6                   (B) by inserting after section 518 (33  
7           U.S.C. 1377) the following:

8   **“SEC. 519. ESTABLISHMENT OF GREAT LAKES CLEANUP**  
9                   **FUND.**

10           “(a) DEFINITIONS.—In this section:

11                   “(1) FUND.—The term ‘Fund’ means the Great  
12           Lakes Cleanup Fund established by subsection (b).

13                   “(2) GREAT LAKES STATES; GREAT LAKES SYS-  
14           TEM.—The terms ‘Great Lakes States’ and ‘Great  
15           Lakes System’ have the meanings given the terms in  
16           section 118(a)(3).

17                   “(b) ESTABLISHMENT OF FUND.—There is estab-  
18           lished in the Treasury of the United States a trust fund  
19           to be known as the ‘Great Lakes Cleanup Fund’.

20                   “(c) ADMINISTRATION OF FUND.—The Adminis-  
21           trator shall administer the Fund.

22                   “(d) USE OF FUNDS.—The Administrator shall make  
23           the amounts in the Fund available to the Great Lakes  
24           States for use in carrying out programs and activities for  
25           improving wastewater discharges into the Great Lakes

1 System, including habitat protection and wetland restora-  
2 tion programs and activities.

3 “(e) COST SHARE.—In making amounts from the  
4 Fund available to Great Lakes States under subsection (d)  
5 for programs and activities, the Administrator may re-  
6 quire those States to pay up to 50 percent of the costs  
7 of the programs and activities.

8 “(f) PRIORITY.—In selecting programs and activities  
9 to be funded using amounts made available under this sec-  
10 tion, a Great Lakes State shall give priority consideration  
11 to programs and activities that reduce or eliminate by-  
12 passes (as defined in section 402(s)(1)) or combined sewer  
13 overflows.

14 “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
15 is authorized to be appropriated to the Fund  
16 \$250,000,000 for each of fiscal years 2020 through  
17 2024.”.

18 (2) CONFORMING AMENDMENTS TO STATE RE-  
19 VOLVING FUND PROGRAM.—Section 607 of the Fed-  
20 eral Water Pollution Control Act (33 U.S.C. 1387)  
21 is amended—

22 (A) in the matter preceding paragraph (1),  
23 by striking “There is” and inserting “(a) IN  
24 GENERAL.—There is”; and

25 (B) by adding at the end the following:

1       “(b) TREATMENT OF GREAT LAKES CLEANUP  
2 FUND.—For purposes of this title, amounts made avail-  
3 able from the Great Lakes Cleanup Fund under section  
4 519 shall be treated as funds authorized to be appro-  
5 priated to carry out this title and as funds made available  
6 under this title, except that the funds shall be made avail-  
7 able to the Great Lakes States in accordance with section  
8 519.”.

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