

114TH CONGRESS  
1ST SESSION

# S. 1586

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

JUNE 16, 2015

Mr. KIRK 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. PROHIBITION ON SEWAGE DUMPING INTO THE**  
7 **GREAT LAKES.**

8 (a) IN GENERAL.—Section 402 of the Federal Water  
9 Pollution Control Act (33 U.S.C. 1342) is amended by  
10 adding at the end the following:

1       “(s) PROHIBITION ON SEWAGE DUMPING INTO THE  
2 GREAT LAKES.—

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

4                       “(A) BYPASS.—The term ‘bypass’ means  
5 an intentional diversion of waste streams to by-  
6 pass any portion of a treatment facility that re-  
7 sults in a discharge into the Great Lakes.

8                       “(B) DISCHARGE.—

9                               “(i) IN GENERAL.—The term ‘dis-  
10 charge’ means a direct or indirect dis-  
11 charge of untreated sewage or partially  
12 treated sewage from a treatment works  
13 into the Great Lakes or a tributary of the  
14 Great Lakes.

15                               “(ii) INCLUSIONS.—The term ‘dis-  
16 charge’ includes a bypass and a combined  
17 sewer overflow.

18                       “(C) GREAT LAKES.—The term ‘Great  
19 Lakes’ has the meaning given the term in sec-  
20 tion 118(a)(3).

21                       “(D) PARTIALLY TREATED SEWAGE.—The  
22 term ‘partially treated sewage’ means any sew-  
23 age, sewage and storm water, or sewage and  
24 wastewater, from domestic or industrial sources  
25 that—

1           “(i) is not treated to national sec-  
2           ondary treatment standards for waste-  
3           water; or

4           “(ii) is treated to a level less than the  
5           level required by the applicable national  
6           pollutant discharge elimination system per-  
7           mit.

8           “(E) TREATMENT FACILITY.—The term  
9           ‘treatment facility’ includes all wastewater  
10          treatment units used by a publicly owned treat-  
11          ment works to meet secondary treatment stand-  
12          ards or higher, as required to attain water qual-  
13          ity standards, under any operating conditions.

14          “(F) TREATMENT WORKS.—The term  
15          ‘treatment works’ has the meaning given the  
16          term in section 212.

17          “(2) PROHIBITION.—A publicly owned treat-  
18          ment works is prohibited from performing a bypass  
19          unless—

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

23                 “(ii) there is not a feasible alternative to  
24                 the bypass, such as the use of auxiliary treat-  
25                 ment facilities, retention of untreated wastes, or

1 maintenance during normal periods of equip-  
2 ment downtime; and

3 “(iii) the treatment works provides notice  
4 of the bypass in accordance with this sub-  
5 section; or

6 “(B) the bypass does not cause effluent  
7 limitations to be exceeded, and the bypass is for  
8 essential maintenance to ensure efficient oper-  
9 ation of the treatment facility.

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

12 “(A) adequate back-up equipment should  
13 have been installed in the exercise of reasonable  
14 engineering judgment to prevent the bypass;  
15 and

16 “(B) the bypass occurred during normal  
17 periods of equipment downtime or preventive  
18 maintenance.

19 “(4) IMMEDIATE NOTICE REQUIREMENTS.—

20 “(A) IN GENERAL.—The Administrator  
21 shall work with States having publicly owned  
22 treatment works subject to the requirements of  
23 this subsection to create immediate notice re-  
24 quirements in the event of discharge that pro-

1           vide for the method, contents, and requirements  
2           for public availability of the notice.

3           “(B) MINIMUM REQUIREMENTS.—

4                   “(i) IN GENERAL.—At a minimum,  
5           the contents of the notice shall include—

6                           “(I) the exact dates and times of  
7           the discharge;

8                           “(II) the volume of the discharge;  
9           and

10                          “(III) a description of any public  
11           access areas impacted.

12                          “(ii) CONSISTENCY.—Minimum re-  
13           quirements shall be consistent for all  
14           States.

15           “(C) ADDITIONAL REQUIREMENTS.—The  
16           Administrator and States described in subpara-  
17           graph (A) shall include—

18                          “(i) follow-up notice requirements  
19           that provide a more full description of each  
20           event, the cause, and plans to prevent reoc-  
21           currence; and

22                          “(ii) annual publication requirements  
23           that list each treatment works from which  
24           the Administrator or the State receive a  
25           follow-up notice.

1           “(D) TIMING.—The notice and publication  
2           requirements described in this paragraph shall  
3           be implemented not later than 2 years after the  
4           date of enactment of this subsection.

5           “(5) SEWAGE BLENDING.—Bypasses prohibited  
6           by this section include bypasses resulting in dis-  
7           charges from a publicly owned treatment works that  
8           consist of effluent routed around treatment units  
9           and thereafter blended together with effluent from  
10          treatment units prior to discharge.

11          “(6) IMPLEMENTATION.—As soon as prac-  
12          ticable, the Administrator shall establish procedures  
13          to ensure that permits issued under this section (or  
14          under a State permit program approved under this  
15          section) to a publicly owned treatment works include  
16          requirements to implement this subsection.

17          “(7) INCREASE IN MAXIMUM CIVIL PENALTY  
18          FOR VIOLATIONS OCCURRING AFTER JANUARY 1,  
19          2035.—Notwithstanding section 309, in the case of a  
20          violation of this subsection occurring on or after  
21          January 1, 2035, or any violation of a permit limita-  
22          tion or condition implementing this subsection occur-  
23          ring after that date, the maximum civil penalty that  
24          shall be assessed for the violation shall be \$100,000  
25          per day for each day the violation occurs.

1           “(8) APPLICABILITY.—This subsection shall  
2           apply to a bypass occurring after the last day of the  
3           1-year period beginning on the date of enactment of  
4           this subsection.”.

5           (b) GREAT LAKES CLEANUP FUND.—

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

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

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

13   **“SEC. 519. ESTABLISHMENT OF GREAT LAKES CLEANUP**  
14                   **FUND.**

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

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

18                   “(2) GREAT LAKES; GREAT LAKES STATES.—  
19                   The terms ‘Great Lakes’ and ‘Great Lakes States’  
20                   have the meanings given the terms in section  
21                   118(a)(3).

22                   “(b) ESTABLISHMENT OF FUND.—There is estab-  
23                   lished in the Treasury of the United States a trust fund  
24                   to be known as the ‘Great Lakes Cleanup Fund’ (referred  
25                   to in this section as the ‘Fund’).

1       “(c) TRANSFERS TO FUND.—Effective January 1,  
2 2035, there are authorized to be appropriated to the Fund  
3 amounts equivalent to the penalties collected for violations  
4 of section 402(s).

5       “(d) ADMINISTRATION OF FUND.—The Adminis-  
6 trator shall administer the Fund.

7       “(e) USE OF FUNDS.—The Administrator shall—

8               “(1) make the amounts in the Fund available  
9 to the Great Lakes States for use in carrying out  
10 programs and activities for improving wastewater  
11 discharges into the Great Lakes, including habitat  
12 protection and wetland restoration; and

13               “(2) allocate those amounts among the Great  
14 Lakes States based on the proportion that—

15                       “(A) the amount attributable to a Great  
16 Lakes State for penalties collected for violations  
17 of section 402(s); bears to

18                       “(B) the total amount of those penalties  
19 attributable to all Great Lakes States.

20       “(f) PRIORITY.—In selecting programs and activities  
21 to be funded using amounts made available under this sec-  
22 tion, a Great Lakes State shall give priority consideration  
23 to programs and activities that address violations of sec-  
24 tion 402(s) resulting in the collection of penalties.”.

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

5                   (A) by striking “There is” and inserting  
6                   “(a) In General.—There is”; and

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

8           “(b) TREATMENT OF GREAT LAKES CLEANUP  
9           FUND.—For purposes of this title, amounts made avail-  
10          able from the Great Lakes Cleanup Fund under section  
11          519 shall be treated as funds authorized to be appro-  
12          priated to carry out this title and as funds made available  
13          under this title, except that the funds shall be made avail-  
14          able to the Great Lakes States in accordance with section  
15          519.”.

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