

106TH CONGRESS  
1ST SESSION

# S. 522

To amend the Federal Water Pollution Control Act to improve the quality of beaches and coastal recreation water, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 3, 1999

Mr. LAUTENBERG (for himself, Mr. TORRICELLI, Mrs. BOXER, Mr. LIEBERMAN, and Mrs. FEINSTEIN) 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 improve the quality of beaches and coastal recreation water, 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 “Beaches Environ-  
5 mental Assessment, Closure, and Health Act of 1999”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) the beaches and coastal recreation water of  
9 the United States are valuable public resources that

1 are used for recreation by millions of people annu-  
2 ally;

3 (2) the beaches of coastal States host many  
4 out-of-State and international visitors;

5 (3) tourism in coastal zones generates billions  
6 of dollars annually;

7 (4) increased population and urbanization of  
8 watershed areas have contributed to the decline in  
9 the environmental quality of coastal water;

10 (5) pollution in coastal water is not restricted  
11 by State or other political boundaries;

12 (6) coastal States have different methods of  
13 testing and parameters for evaluating the quality of  
14 coastal recreation water, resulting in the provision of  
15 varying degrees of protection to the public;

16 (7) the adoption of consistent criteria by coastal  
17 States would enhance public health and safety, in-  
18 cluding the adoption of consistent criteria for—

19 (A) testing and evaluating the quality of  
20 coastal recreation water; and

21 (B) the posting of signs at beaches notify-  
22 ing the public during periods when the water  
23 quality criteria for public safety are not met;  
24 and

1           (8) while the adoption of consistent criteria  
 2           would enhance public health and safety, the failure  
 3           to meet consistent criteria should be addressed as  
 4           part of a watershed approach to effectively identify  
 5           and eliminate sources of pollution.

6           (b) PURPOSES.—The purpose of this Act is to amend  
 7           the Federal Water Pollution Control Act (33 U.S.C. 1251  
 8           et seq.) to require uniform criteria and procedures for  
 9           testing, monitoring, and notifying users of public coastal  
 10          recreation water and beaches—

11                   (1) to protect public safety; and

12                   (2) to improve environmental quality.

13 **SEC. 3. BEACH AND COASTAL RECREATION WATER QUAL-**  
 14 **ITY.**

15          The Federal Water Pollution Control Act (33 U.S.C.  
 16 1251 et seq.) is amended by adding at the end:

17 **“TITLE VII—BEACH AND COAST-**  
 18 **AL RECREATION WATER**  
 19 **QUALITY**

20 **“SEC. 701. DEFINITIONS.**

21          “In this title:

22                   “(1) COASTAL RECREATION WATER.—The term  
 23           ‘coastal recreation water’ means water adjacent to  
 24           public beaches of the Great Lakes and of marine  
 25           coastal water (including bays, lagoon mouths, and

1 coastal estuaries within the tidal zone) used by the  
2 public for—

3 “(A) swimming;

4 “(B) bathing;

5 “(C) surfing; or

6 “(D) other similar body contact purposes.

7 “(2) FLOATABLE MATERIALS.—The term ‘float-  
8 able materials’ means any foreign matter that may  
9 float or remain suspended in water, including—

10 “(A) plastic;

11 “(B) aluminum cans;

12 “(C) wood;

13 “(D) bottles;

14 “(E) paper products; and

15 “(F) fishing gear.

16 **“SEC. 702. ADOPTION OF COASTAL RECREATIONAL WATER**  
17 **QUALITY CRITERIA BY STATES.**

18 “(a) IN GENERAL.—Not later than 3 years and 180  
19 days after the date of enactment of this title, each State  
20 shall adopt water quality criteria for coastal recreation  
21 water that, at a minimum, are consistent with the criteria  
22 published by the Administrator under section 304(a)(1).

23 “(b) DEVELOPMENT OF CRITERIA.—Water quality  
24 criteria described in subsection (a) shall—

1           “(1) be developed and promulgated in accord-  
2           ance with section 303(c);

3           “(2) be incorporated into all appropriate pro-  
4           grams into which a State would incorporate other  
5           water quality criteria adopted under section 303(c);  
6           and

7           “(3) not later than 3 years after the date of  
8           publication of revisions by the Administrator under  
9           section 703(b), be revised by the State.

10          “(c) FAILURE OF STATES TO ADOPT CRITERIA.—If,  
11          not later than 3 years and 180 days after the date of en-  
12          actment of this title, a State has not complied with sub-  
13          section (a), the water quality criteria issued by the Admin-  
14          istrator under section 304(a)(1) shall—

15                 “(1) become the effective water quality criteria  
16                 for coastal recreational water for that State; and

17                 “(2) be considered to have been promulgated by  
18                 the Administrator under section 303(c)(4).

19          **“SEC. 703. REVISIONS TO WATER QUALITY CRITERIA.**

20                 “(a) STUDIES.—Not later than 3 years after the date  
21                 of enactment of this title, and after consultation with ap-  
22                 propriate Federal, State, and local officials (including local  
23                 health officials) and other interested persons, the Adminis-  
24                 trator shall conduct, in cooperation with the Under Sec-

1 retary of Commerce for Oceans and Atmosphere, studies  
2 to provide new information for use in developing—

3           “(1) a more complete list of potential human  
4 health risks from inhalation, ingestion, or body con-  
5 tact with coastal recreation water, including effects  
6 on the upper respiratory system;

7           “(2) appropriate and effective indicators for im-  
8 proving direct detection of the presence of pathogens  
9 found harmful to human health in coastal rec-  
10 reational water;

11           “(3) appropriate, accurate, and expeditious  
12 methods (including predictive models) for detecting  
13 the presence of pathogens in coastal recreation water  
14 that are harmful to human health; and

15           “(4) guidance for the State-to-State application  
16 of the criteria issued under subsection (b) to account  
17 for the diversity of geographic and aquatic condi-  
18 tions throughout the United States.

19           “(b) REVISED CRITERIA.—Not later than 5 years  
20 after the date of enactment of this title, based on the re-  
21 sults of the studies conducted under subsection (a), the  
22 Administrator, after consultation with appropriate Fed-  
23 eral, State, and local officials (including local health offi-  
24 cials) and other interested parties, shall—

1           “(1) issue revised water quality criteria for  
2 pathogens in coastal recreation water that are harm-  
3 ful to human health, including a revised list of indi-  
4 cators and testing methods; and

5           “(2) not less than once every 5 years thereafter,  
6 review and revise the water quality criteria.

7 **“SEC. 704. COASTAL BEACH WATER QUALITY MONITORING.**

8           “(a) MONITORING.—

9           “(1) IN GENERAL.—Not later than 1 year and  
10 180 days after the date of enactment of this title,  
11 the Administrator shall promulgate regulations re-  
12 quiring monitoring by the States of public coastal  
13 recreation water and beaches for—

14                   “(A) compliance with applicable water  
15 quality criteria; and

16                   “(B) maintenance of public safety.

17           “(2) CONTENTS OF REQUIREMENTS.—Monitor-  
18 ing requirements established under this section shall  
19 specify, at a minimum—

20                   “(A) available monitoring methods to be  
21 used by States;

22                   “(B) the frequency and location of mon-  
23 itoring based on—

24                           “(i) the periods of recreational use of  
25 coastal recreation water and beaches;

1           “(ii) the extent and degree of rec-  
2           reational use during the periods described  
3           in clause (i);

4           “(iii) the proximity of coastal recre-  
5           ation water to known or identified point  
6           and nonpoint sources of pollution; and

7           “(iv) the relationship between the use  
8           of public recreation water and beaches to  
9           storm events;

10          “(C) methods for—

11           “(i) detecting levels of pathogens that  
12           are harmful to human health; and

13           “(ii) identifying short-term increases  
14           in pathogens that are harmful to human  
15           health in coastal recreation water, includ-  
16           ing the relationship of short-term increases  
17           in pathogens to storm events; and

18          “(D) conditions and procedures under  
19          which discrete areas of coastal recreation water  
20          may be exempted by the Administrator from  
21          the monitoring requirements under this sub-  
22          section, if the Administrator determines that an  
23          exemption will not—

1                   “(i) impair compliance with the appli-  
2                   cable water quality criteria for that water;  
3                   and

4                   “(ii) compromise public safety.

5                   “(b) NOTIFICATION REQUIREMENTS.—

6                   “(1) IN GENERAL.—Regulations promulgated  
7                   under subsection (a) shall require States to provide  
8                   prompt notification of a failure or the likelihood of  
9                   a failure to meet applicable water quality criteria for  
10                  State coastal recreation water, to—

11                  “(A) local governments;

12                  “(B) the public; and

13                  “(C) the Administrator.

14                  “(2) INFORMATION INCLUDED IN NOTIFICA-  
15                  TION.—Notification under this subsection shall re-  
16                  quire, at a minimum—

17                  “(A) the prompt communication of the oc-  
18                  currence, nature, extent, and location of, and  
19                  substances (including pathogens) involved in, a  
20                  failure or immediate likelihood of a failure to  
21                  meet water quality criteria, to a designated offi-  
22                  cial of a local government having jurisdiction  
23                  over land adjoining the coastal recreation water  
24                  for which the failure or imminent failure to  
25                  meet water quality criteria is identified; and

1           “(B) the posting of signs, during the pe-  
2           riod in which water quality criteria are not met  
3           continues, that are sufficient to give notice to  
4           the public—

5                   “(i) of a failure to meet applicable  
6                   water quality criteria for the water; and

7                   “(ii) the potential risks associated  
8                   with water contact activities in the water.

9           “(c) REVIEW AND REVISION OF REGULATIONS.—Pe-  
10          riodically, but not less than once every 5 years, the Admin-  
11          istrator shall review and make any necessary revisions to  
12          regulations promulgated under this section.

13          “(d) STATE IMPLEMENTATION.—

14                   “(1) IN GENERAL.—Not later than 3 years and  
15                   180 days after the date of enactment of this title,  
16                   each State shall implement a monitoring and notifi-  
17                   cation program that conforms to the regulations pro-  
18                   mulgated under subsections (a) and (b).

19                   “(2) REVISION OF PROGRAM.—Not later than 2  
20                   years after the date of publication of any revisions  
21                   by the Administrator under subsection (c), each  
22                   State shall revise the program established under  
23                   paragraph (1) to incorporate the revisions.

24          “(e) GUIDANCE; DELEGATION OF RESPONSIBIL-  
25          ITY.—

1           “(1) IN GENERAL.—Not later than 1 year and  
2           180 days after the date of enactment of this title,  
3           the Administrator shall issue guidance  
4           establishing—

5                   “(A) core performance measures for test-  
6                   ing, monitoring, and notification programs  
7                   under this section; and

8                   “(B) the delegation of testing, monitoring,  
9                   and notification programs under this section to  
10                  local government authorities.

11           “(2) DELEGATION OF RESPONSIBILITY TO  
12           LOCAL GOVERNMENTS.—If a responsibility described  
13           in paragraph (1)(B) is delegated by a State to a  
14           local government authority, or is delegated to a local  
15           government authority before the date of enactment  
16           of this section, State resources, including grants  
17           made under section 706, shall be made available to  
18           the delegated authority for the purpose of imple-  
19           menting the delegated program in a manner that is  
20           consistent with the guidance issued by the Adminis-  
21           trator.

22           “(f) FLOATABLE MATERIALS MONITORING; TECH-  
23           NICAL ASSISTANCE.—Not later than 1 year and 180 days  
24           after the date of enactment of this title, the Administrator  
25           shall—

1           “(1) provide technical assistance for uniform  
2           assessment and monitoring procedures for floatable  
3           materials in coastal recreation water; and

4           “(2) specify the conditions under which the  
5           presence of floatable material shall constitute a  
6           threat to public health and safety.

7           “(g) OCCURRENCE DATABASE.—The Administrator  
8           shall establish, maintain, and make available to the public  
9           by electronic and other means—

10           “(1) a national coastal recreation water pollu-  
11           tion occurrence database using reliable information,  
12           including the information reported under subsection  
13           (b); and

14           “(2) a listing of communities conforming to the  
15           regulations promulgated under subsections (a) and  
16           (b).

17           **“SEC. 705. REPORT TO CONGRESS.**

18           “Not later than 4 years after the date of the enact-  
19           ment of this title and periodically thereafter, the Adminis-  
20           trator shall submit to Congress a report that contains—

21           “(1) recommendations concerning the need for  
22           additional water quality criteria and other actions  
23           that are necessary to improve the quality of coastal  
24           recreation water; and

1           “(2) an evaluation of State efforts to implement  
2           this title.

3   **“SEC. 706. GRANTS TO STATES.**

4           “(a) GRANTS.—The Administrator may make grants  
5           to States for use in meeting the requirements of sections  
6           702 and 704.

7           “(b) COST SHARING.—For each fiscal year, the total  
8           amount of funds provided through grants to a State under  
9           this section shall not exceed 50 percent of the cost to the  
10          State of implementing requirements described in sub-  
11          section (a).

12          “(c) ELIGIBLE STATE.—Effective beginning 3 years  
13          and 180 days after the date of enactment of this title,  
14          the Administrator may make a grant to a State under this  
15          section only if the State demonstrates to the satisfaction  
16          of the Administrator the implementation of the State mon-  
17          itoring and notification program under section 704 of this  
18          title.

19   **“SEC. 707. AUTHORIZATION OF APPROPRIATIONS.**

20          There is authorized to be appropriated—

21                 “(1) for use in making grants to States under  
22                 section 706, \$9,000,000 for each of fiscal years  
23                 2000 through 2004; and

1           “(2) for carrying out the other provisions of  
2           this title, \$3,000,000 for each of fiscal years 2000  
3           through 2004.”.

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