

As Introduced

**134th General Assembly
Regular Session
2021-2022**

H. B. No. 385

Representative Cross

Cosponsors: Representatives Creech, Click, Miller, J., Stoltzfus, Fowler Arthur

A BILL

To amend sections 6111.04 and 6111.99 and to enact 1
section 6111.61 of the Revised Code to prohibit 2
a municipal corporation located within the 3
Western Basin of Lake Erie from discharging any 4
amount of waste into Ohio waters. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 6111.04 and 6111.99 be amended 6
and section 6111.61 of the Revised Code be enacted to read as 7
follows: 8

Sec. 6111.04. (A) Both of the following apply except as 9
otherwise provided in division (A) or (F) of this section: 10

(1) No person shall cause pollution or place or cause to 11
be placed any sewage, sludge, sludge materials, industrial 12
waste, or other wastes in a location where they cause pollution 13
of any waters of the state. Division (A)(1) of this section does 14
not apply if division (D) of section 6111.61 of the Revised Code 15
applies. 16

(2) Such an action prohibited under division (A)(1) of 17
this section is hereby declared to be a public nuisance. 18

Divisions (A) (1) and (2) of this section do not apply if 19
the person causing pollution or placing or causing to be placed 20
wastes in a location in which they cause pollution of any waters 21
of the state holds a valid, unexpired permit, or renewal of a 22
permit, governing the causing or placement as provided in 23
sections 6111.01 to 6111.08 of the Revised Code or if the 24
person's application for renewal of such a permit is pending. 25

(B) If the director of environmental protection 26
administers a sludge management program pursuant to division (R) 27
of section 6111.03 of the Revised Code, both of the following 28
apply except as otherwise provided in division (B) or (F) of 29
this section: 30

(1) No person, in the course of sludge management, shall 31
place on land located in the state or release into the air of 32
the state any sludge or sludge materials. 33

(2) An action prohibited under division (B) (1) of this 34
section is hereby declared to be a public nuisance. 35

Divisions (B) (1) and (2) of this section do not apply if 36
the person placing or releasing the sludge or sludge materials 37
holds a valid, unexpired permit, or renewal of a permit, 38
governing the placement or release as provided in sections 39
6111.01 to 6111.08 of the Revised Code or if the person's 40
application for renewal of such a permit is pending. 41

(C) No person to whom a permit has been issued shall place 42
or discharge, or cause to be placed or discharged, in any waters 43
of the state any sewage, sludge, sludge materials, industrial 44
waste, or other wastes in excess of the permissive discharges 45
specified under an existing permit without first receiving a 46
permit from the director to do so. 47

(D) No person to whom a sludge management permit has been 48
issued shall place on the land or release into the air of the 49
state any sludge or sludge materials in excess of the permissive 50
amounts specified under the existing sludge management permit 51
without first receiving a modification of the existing sludge 52
management permit or a new sludge management permit to do so 53
from the director. 54

(E) The director may require the submission of plans, 55
specifications, and other information that the director 56
considers relevant in connection with the issuance of permits. 57

(F) This section does not apply to any of the following: 58

(1) Waters used in washing sand, gravel, other aggregates, 59
or mineral products when the washing and the ultimate disposal 60
of the water used in the washing, including any sewage, 61
industrial waste, or other wastes contained in the waters, are 62
entirely confined to the land under the control of the person 63
engaged in the recovery and processing of the sand, gravel, 64
other aggregates, or mineral products and do not result in the 65
pollution of waters of the state; 66

(2) Water, gas, or other material injected into a well to 67
facilitate, or that is incidental to, the production of oil, 68
gas, artificial brine, or water derived in association with oil 69
or gas production and disposed of in a well, in compliance with 70
a permit issued under Chapter 1509. of the Revised Code, or 71
sewage, industrial waste, or other wastes injected into a well 72
in compliance with an injection well operating permit. Division 73
(F) (2) of this section does not authorize, without a permit, any 74
discharge that is prohibited by, or for which a permit is 75
required by, regulation of the United States environmental 76
protection agency. 77

(3) Application of any materials to land for agricultural 78
purposes or runoff of the materials from that application or 79
pollution by residual farm products, manure, or soil sediment, 80
including attached substances, resulting from farming, 81
silvicultural, or earthmoving activities regulated by Chapter 82
307. or 939. of the Revised Code. Division (F) (3) of this 83
section does not authorize, without a permit, any discharge that 84
is prohibited by, or for which a permit is required by, the 85
Federal Water Pollution Control Act or regulations adopted under 86
it. As used in division (F) (3) of this section, "residual farm 87
products" and "manure" have the same meanings as in section 88
939.01 of the Revised Code. 89

(4) The excrement of domestic and farm animals defecated 90
on land or runoff therefrom into any waters of the state. 91
Division (F) (4) of this section does not authorize, without a 92
permit, any discharge that is prohibited by, or for which a 93
permit is required by, the Federal Water Pollution Control Act 94
or regulations adopted under it. 95

(5) On and after the date on which the United States 96
environmental protection agency approves the NPDES program 97
submitted by the director of agriculture under section 903.08 of 98
the Revised Code, any discharge that is within the scope of the 99
approved NPDES program submitted by the director of agriculture; 100

(6) The discharge of sewage, industrial waste, or other 101
wastes into a sewerage system tributary to a treatment works. 102
Division (F) (6) of this section does not authorize any discharge 103
into a publicly owned treatment works in violation of a 104
pretreatment program applicable to the publicly owned treatment 105
works or any discharge to a privately owned treatment works in 106
violation of any permit conditions established in accordance 107

with 40 C.F.R. 122.44(m) . 108

(7) A household sewage treatment system or a small flow 109
on-site sewage treatment system, as applicable, as defined in 110
section 3718.01 of the Revised Code that is installed in 111
compliance with Chapter 3718. of the Revised Code and rules 112
adopted under it. Division (F) (7) of this section does not 113
authorize, without a permit, any discharge that is prohibited 114
by, or for which a permit is required by, regulation of the 115
United States environmental protection agency. 116

(8) Exceptional quality sludge generated outside of this 117
state and contained in bags or other containers not greater than 118
one hundred pounds in capacity. As used in division (F) (8) of 119
this section, "exceptional quality sludge" has the same meaning 120
as in division (Y) of section 3745.11 of the Revised Code. 121

(G) The holder of a permit issued under section 402 (a) of 122
the Federal Water Pollution Control Act need not obtain a permit 123
for a discharge authorized by the permit until its expiration 124
date. Except as otherwise provided in this division, the 125
director of environmental protection shall administer and 126
enforce those permits within this state and may modify their 127
terms and conditions in accordance with division (J) of section 128
6111.03 of the Revised Code. On and after the date on which the 129
United States environmental protection agency approves the NPDES 130
program submitted by the director of agriculture under section 131
903.08 of the Revised Code, the director of agriculture shall 132
administer and enforce those permits within this state that are 133
issued for any discharge that is within the scope of the 134
approved NPDES program submitted by the director of agriculture. 135

Sec. 6111.61. (A) As used in this section: 136

(1) "NPDES" has the same meaning as in section 6111.561 of 137
the Revised Code. 138

(2) "Western basin" has the same meaning as in section 139
905.326 of the Revised Code. 140

(B) Notwithstanding any other provision of law to the 141
contrary, the director of environmental protection shall, within 142
ninety days of the effective date of this section, revoke any 143
NPDES or other permit issued under this chapter to any municipal 144
corporation located within the western basin that owns or 145
operates a treatment works or sewerage system. 146

(C) Notwithstanding any other provision of law to the 147
contrary, beginning on the effective date of this section, the 148
director shall not issue an NPDES permit or other permit under 149
this chapter to a municipal corporation located within the 150
western basin that owns or operates a treatment works or 151
sewerage system. 152

(D) No municipal corporation located within the western 153
basin shall cause pollution or place or cause to be placed any 154
sewage, sludge, sludge materials, industrial waste, or other 155
wastes in a location where they cause pollution of any waters of 156
the state. 157

Sec. 6111.99. (A) Whoever purposely violates section 158
6111.04, 6111.042, 6111.05, or division (A) or (C) of section 159
6111.07 of the Revised Code is guilty of a felony and shall be 160
fined not more than twenty-five thousand dollars or imprisoned 161
not more than four years, or both. Each day of violation is a 162
separate offense. 163

(B) Whoever knowingly violates section 6111.04, 6111.042, 164
6111.045, 6111.047, 6111.05, 6111.45, or division (A) or (C) of 165

section 6111.07 of the Revised Code is guilty of a misdemeanor 166
and shall be fined not more than ten thousand dollars or 167
imprisoned not more than one year, or both. Each day of 168
violation is a separate offense. 169

(C) Whoever violates section 6111.46 of the Revised Code 170
shall be fined not more than five hundred dollars. 171

(D) Whoever violates section 6111.42 of the Revised Code 172
shall be fined not more than one hundred dollars for a first 173
offense; for each subsequent offense, the person shall be fined 174
not more than one hundred fifty dollars. 175

(E) Whoever violates section 6111.44 of the Revised Code 176
shall be fined not more than ten thousand dollars. Each day of 177
violation is a separate offense. 178

(F) A municipal corporation that knowingly violates 179
division (D) of section 6111.61 of the Revised Code shall be 180
fined two hundred fifty thousand dollars on a first offense and 181
one thousand dollars on each subsequent offense. Each day of 182
violation is a separate offense. If the violation involves 183
pollution that exceeds one hundred million gallons or more 184
within a twelve-month period, the municipal corporation shall 185
pay an additional fine of one million dollars. 186

(G) If a person is convicted of or pleads guilty to a 187
violation of any section of this chapter, in addition to the 188
financial sanctions authorized by this chapter or section 189
2929.18 or 2929.28 or any other section of the Revised Code, the 190
court imposing the sentence on the person may order the person 191
to reimburse the state agency or a political subdivision for any 192
actual costs that it incurred in responding to the violation, 193
including the cost of restoring affected aquatic resources or 194

otherwise compensating for adverse impact to aquatic resources 195
directly caused by the violation, but not including the costs of 196
prosecution. 197

Section 2. That existing sections 6111.04 and 6111.99 of 198
the Revised Code are hereby repealed. 199

Section 3. Section 6111.04 of the Revised Code is 200
presented in this act as a composite of the section as amended 201
by both S.B. 2 and H.B. 49 of the 132nd General Assembly. The 202
General Assembly, applying the principle stated in division (B) 203
of section 1.52 of the Revised Code that amendments are to be 204
harmonized if reasonably capable of simultaneous operation, 205
finds that the composite is the resulting version of the section 206
in effect prior to the effective date of the section as 207
presented in this act. 208