

By Messrs. Lynch of Barnstable and Goyette of New Bedford,
petition of Roger R. Goyette and Thomas K. Lynch relative to oil spills
in waters of the Commonwealth. Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Nine.

AN ACT RELATING TO OIL SPILLS IN WATERS OF THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, as follows:

1 SECTION 1. Section 26A of chapter 21 of the General Laws, as
2 most recently amended by section 2 of chapter 546 of the acts of
3 1973, is hereby amended by adding the following two
4 definitions:—

5 “Discharge,” includes any spilling, leaking, pumping, pouring,
6 emptying, seeping, draining or dumping.

7 “Oil,” any insoluble or partially soluble oils of any kind or origin
8 or in any form including, but not limited to, crude or fuel oils, lube
9 oil or sludge, asphalt, insoluble or partly insoluble derivatives of
10 mineral, animal or vegetable oils.

1 SECTION 2. Subsection (14) of section 27 of chapter 21 of the
2 General Laws, as most recently amended by section 9 of chapter
3 546 of the acts of 1973, is hereby amended by striking the first five
4 paragraphs of said subsection and inserting in place thereof the
5 following three paragraphs:—

6 (14) Whenever any oil is discharged or there is a threat of such
7 discharge into or upon waters of the commonwealth or adjoining
8 shorelines, the division shall undertake to cause said substance to
9 be contained, removed, treated and disposed of by whatever
10 method it considers best. The owner, operator or lessee of the
11 facility or container from which the oil is discharged, the owner of
12 the oil, and any other person whose actions cause the discharge

13 shall be deemed to be persons responsible for said discharge and
14 shall be jointly and severally and strictly responsible for undertak-
15 ing the immediate containment, removal and disposal of such oil
16 by whatever method the division considers best. In the event either
17 that the division believes that the persons responsible cannot or
18 will not effect a proper removal and disposal of the oil, the division
19 is authorized to arrange for the containment, removal and disposal
20 of said oil. Persons responsible for such discharge shall be subject
21 to the civil penalties and criminal fines and sanctions prescribed by
22 section forty-two of this chapter. Said persons shall also be jointly
23 and severally liable to the commonwealth in tort, in treble damages,
24 for costs and expenses incurred by the commonwealth in investi-
25 gating, containing and removing said substances and for all dam-
26 ages done to natural and recreational resources of the
27 commonwealth, including the costs of restoring damaged areas to
28 their natural condition. Such persons shall be further liable in tort
29 to any other person for any damages to real and personal property,
30 and, in the case of commercial fishermen, for verifiable income lost
31 because of damage to shellfish beds. Claims asserted by the com-
32 monwealth shall have priority over claims asserted by all other
33 persons. Amounts recovered by the commonwealth under this
34 section, including criminal fines or civil penalties, shall be credited
35 to the account used by the division to arrange for the containment,
36 removal and disposal of oil spills, provided that amounts recovered
37 by the commonwealth for restoration of damaged areas shall be
38 used for such restoration.

39 Any person responsible for a discharge of oil, or any employee of
40 any such person responsible, or any other owner, operator or lessee
41 of a vessel, vehicle, railroad car or facility used for the production,
42 processing, transportation, transfer or storage of oil, shall, as soon
43 as he has knowledge of such discharge, immediately notify the
44 division thereof. Any such person who fails so to notify the division
45 shall be subject to the civil penalties and the criminal fines and
46 sanctions prescribed by section forty-two of this chapter.

47 Chemicals shall not be used in the clean-up of oil spills unless
48 their use has been authorized by the division, and if a public water
49 supply or shellfish beds may be affected by the department of
50 environmental quality engineering.