

By Mr. Angelo of Saugus, petition of Steven Angelo, Christopher J. Hodgkins, Robert A. Durand and Thomas P. Walsh for legislation to improve the environmental policy laws of the Commonwealth. Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT TO IMPROVE THE MASSACHUSETTS ENVIRONMENTAL POLICY ACT.

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 62C of Chapter 30 of the General Laws
2 is hereby amended by striking out the third paragraph and
3 inserting in place thereof the following new paragraph: —

4 No agency shall commence a project which is not exempted by
5 the provisions of any law or approve a permit, land transfer,
6 or financial assistance application for any such project unless no
7 environmental notification form is required, or unless the
8 secretary has determined that no environmental impact report is
9 required, or unless sixty days have elapsed following publication
10 by the secretary of notice of availability of a final environmental
11 impact report. No private person seeking a permit, land transfer,
12 or financial assistance from an agency for a project which is not
13 exempted by the provisions of any law shall commence that
14 project unless no environmental notification form is required, or
15 unless the secretary has determined that no environmental impact
16 report is required, or unless sixty days have elapsed following
17 publication by the secretary of notice of availability of a final
18 environmental impact report, or unless the secretary has made a
19 written finding that such commencement does not foreclose
20 mitigation options and does not lead to the potential for
21 significant environmental damage.

1 SECTION 2. Section 62C of said chapter 30 is hereby further
2 amended by striking out the fifth paragraph and inserting in place
3 thereof the following new paragraph: —

4 At least twice per month, with respect to the preceding half
5 month, the secretary shall issue notice of all filings, of the
6 availability of all reports received, and of all certificates and
7 determinations issued by the secretary pursuant to sections sixty-
8 one to sixty-two I, inclusive. This notice shall be in such form as
9 the secretary shall determine is reasonably suited to informing all
10 interested agencies and persons of the receipt of such filings, the
11 availability of such reports, and the issuance of such certificates
12 and determinations. The date of issuance of notice of availability
13 for any such report, certificate, or determination shall be the date
14 upon which it is published hereunder.

1 SECTION 3. Section 62H of said Chapter 30 is hereby
2 amended by striking out the first sentence and inserting in place
3 thereof the following two sentences: —

4 An agency, a person aggrieved, or any ten persons domiciled
5 in the Commonwealth may seek judicial review by the superior
6 court of the secretary's decision under section sixty-two A as to
7 whether or not an environmental impact report is required, and
8 of the secretary's decision under section sixty-two C as to whether
9 a final environmental impact report complies with the provisions
10 of sections sixty-two through sixty-two H. An agency or person
11 intending to commence an action or proceeding alleging an
12 improper determination or whether a project requires the
13 preparation of an environmental impact report under section sixty-
14 two A, shall first provide notice of intention within sixty days of
15 issuance of notice of availability of such determination pursuant
16 to section sixty-two C.

1 SECTION 4. Said section 62H is hereby further amended in
2 line 19 by striking out the word "that" and inserting in place
3 thereof the following words: — sixty-two J.

1 SECTION 5. Said section is hereby further amended in line 51
2 by striking out the words "sixty-two H" and inserting in place
3 thereof the following words: — sixty-two J.

1 SECTION 6. Said chapter 30 is hereby amended by inserting
2 after Section 62H the following two sections: —

3 Section 62I. Upon application by the executive office or body
4 of a city or town, the secretary may review, under the provisions
5 of sections 62 through 62H, a project that does not require agency
6 action or other approval but that does require the issuance of a
7 permit or other approval by the city or town. Such application
8 shall be made by the city or town within thirty days after receipt
9 by the city or town of the first such application or other request
10 for issuance or granting of a permit or other approval. In order
11 to accept such application, the secretary must make formal
12 findings within thirty days after receipt of such application as to
13 all of the following: (1) that the city or town has made timely
14 application; (2) that the project falls within one or more of the
15 following categories:

16 (i) a residential development having 50 or more dwelling units;

17 (ii) a non-residential development having 50,000 square feet or
18 more of gross interior space of 200 or more parking spaces;

19 (iii) any project reasonably calculated to generate 1000 or more
20 new vehicle trips per day;

21 (iv) any project which will involve the issuance of an order of
22 conditions permitting any dredging, filling, altering or removal
23 of 1,000 square feet or more of salt marsh, 5,000 square feet or
24 more of bordering vegetative wetland, 500 feet or more of bank,
25 or one-half acre or more of any other area subject to the Wetland
26 Protection Act;

27 (v) any project which will involve approval of plans or a site
28 assignment for: a solid waste refuse transfer station, recycling or
29 solid waste processing facility; incinerator of design capacity of
30 50 tons per day or more; new landfill or expansion of an existing
31 landfill having design capacity of 100 tons per day or more or 250
32 acre feet or more of total volume or total area of 25 acres or more;
33 or any landfill site within one-half mile of a public ground water
34 supply or within the watershed of a public surface water supply
35 or within lands subject to M.G.L. chapter 131, Section 40;

36 (vi) any project which will involve a new permit for handling
37 or storage of 25,000 gallons or more of petroleum, gas or
38 derivative products;

39 (3) That the issuance of such permit or approval has the potential
40 to result in significant damage to the environment; (4) that the
41 review is essential to avoid or minimize that damage; (5) that the
42 city or town which has applied for such review has sufficient
43 authority to assure implementation of measures necessary to
44 avoid or minimize that damage when making its decision on such
45 permit or approval; (6) that all relevant local boards and officials
46 have agreed in writing to be bound by the standards and
47 procedures set for agencies in sections 61 and 62 through 62H;
48 and (7) that the review will not cause undue hardship to any
49 affected parties. Failure of the secretary to make such findings
50 within said thirty days after receipt of such application from the
51 city or town shall be conclusively deemed to be a decision by the
52 secretary that review of the project is not warranted.

53 If the secretary accepts a project for review under the provisions
54 of this section, the project shall be reviewed in the same way as
55 are projects requiring agency action, provided that the scope of
56 the review shall be limited to that part of the project which is
57 within the subject matter jurisdiction of the city or town permit
58 or other approval.

59 Section 62J. The attorney general may, upon the request of the
60 secretary or any ten persons domiciled in the Commonwealth,
61 bring action for injunctive relief against any person or agency for
62 violation of any provision of section 61 or sections 62 through
63 62I or any provision of any regulation or determination issued
64 thereunder, and the superior court shall have jurisdiction to enjoin
65 such violation and to grant such further relief as it may deem
66 appropriate. Any person who violates any provisions of section 61
67 or sections 62 through 62I or any provision of any regulation
68 or determination issued thereunder, may be subject to a civil
69 penalty not to exceed twenty-five thousand dollars per day for
70 each such violation; provided, however, that each day such
71 violation occurs or continues following notice of the violation by
72 the secretary shall be a separate offense. The superior court shall
73 have jurisdiction to enforce the provisions of this section.