

By Mr. Angelo of Saugus, petition of Steven Angelo, Joseph B. McIntyre, David P. Magnani and Robert M. Koczera for legislation to further protect the environment of the commonwealth. Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT FURTHER ENHANCING AND PROTECTING THE ENVIRONMENT 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 14 of Chapter 21G of the General Laws
2 is hereby amended by striking out in lines 43 and 44 the words
3 "ten thousand dollars or be imprisoned for a period of not more
4 than one hundred and eighty days" and inserting in place thereof
5 the words "twenty-five thousand dollars or be imprisoned for a
6 period of not more than one year".

1 SECTION 2. 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 act on a permit, land transfer, or
6 financial assistance application for any such project unless the
7 secretary has determined that no environmental impact report is
8 required, or unless sixty days have elapsed following publication
9 by the secretary of notice of availability of a final environmental
10 impact report. No private person seeking a permit, land transfer,
11 or financial assistance from an agency for a project which is not
12 exempted by the provisions of any law shall commence that
13 project unless the secretary has determined that no environmental
14 impact report is required, or unless sixty days have elapsed
15 following publication by the secretary of notice of availability of
16 a final environmental impact report, or unless the secretary has

17 made a written finding that such commencement does not
18 foreclose mitigation options and does not lead to the potential
19 for significant environmental damage.

1 SECTION 3. 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 4. 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, inclusive. An agency
11 or person intending to commence an action or proceeding alleging
12 an improper determination of whether a project requires the
13 preparation of an environmental impact report under section
14 sixty-two A shall first provide notice of intention within sixty days
15 of issuance of notice of availability of such determination
16 pursuant to section sixty-two C.

1 SECTION 5. Section 62H of said Chapter 30 is hereby further
2 amended in line 19 by striking out the word "that" and inserting
3 in place thereof the following words: — as to whether.

1 SECTION 6. Section 62H of said Chapter 30 is hereby further
2 amended in line 51 by striking out the words "sixty two H" and
3 inserting in place thereof the following words: — sixty two J.

1 SECTION 7. 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, inclusive, a project that does not
6 require agency action or other approval but that does require the
7 issuance of a permit or other approval by the city or town. In order
8 to accept such an application, the secretary must make formal
9 findings within thirty (30) days after receipt of such application
10 as to all of the following: (1) that the city or town has made timely
11 application; (2) that the project falls within one or more of the
12 categories listed at 301 CMR 11.25, 301 CMR 11.26 or 301 CMR
13 11.27 as may be amended; (3) that the issuance of such permit
14 or approval has the potential to result in significant damage to
15 the environment; (4) that the review is essential to avoid or
16 minimize that damage; (5) that the city or town which has applied
17 for such review has sufficient authority to assure implementation
18 of measures necessary to avoid or minimize that damage when
19 making its decision on such permit or approval; (6) that all
20 relevant local boards and officials have agreed in writing to be
21 bound by the standards and procedures set for agencies in section
22 61 and 62 through 62H; and (7) that the review will not cause
23 undue hardship to any affected parties. Failure of the secretary
24 to make such findings within said thirty (30) days after receipt
25 of such application from the city or town shall be conclusively
26 deemed to be a decision by the secretary that review of the project
27 is not warranted.

28 If the secretary accepts a project for review under the provisions
29 of this section, the project shall be reviewed in the same way as
30 are projects requiring agency action, provided that the scope of
31 the review shall be limited to that part of the project which is
32 within the subject matter jurisdiction of the city or town permit
33 or other approval.

34 Section 62J. The attorney general may, upon the request of the
35 secretary or any ten persons domiciled in the Commonwealth,

36 bring action for injunctive relief against any person or agency for
37 violation of any provision of section 61 or sections 62 through
38 62I, inclusive, or any provision of any regulation or determination
39 issued thereunder, and the superior court shall have jurisdiction
40 to enjoin such violation and to grant such further relief as it may
41 deem appropriate. Any person who violates any provision of
42 section 61 or sections 62 through 62I, inclusive, or any provision
43 of any regulation or determination issued thereunder, may be
44 subject to a civil penalty not to exceed twenty-five thousand
45 dollars per day for each such violation; provided, however, that
46 each day such violation occurs or continues following notice of
47 the violation by the secretary shall be a separate offense. The
48 superior court shall have jurisdiction to enforce the provisions of
49 this section.

1 SECTION 8. Section 10 of Chapter 83 of the General Laws
2 is hereby amended by striking the word "A" from line 1 and
3 inserting in place thereof the words: —

4 "Notwithstanding any other provision of law, a".

1 SECTION 9. Section 10 of said Chapter 83 is further amended
2 by inserting after the first paragraph the following:

3 The Superior Court shall have jurisdiction to enjoin violations
4 of, or grant such additional relief as it deems necessary or
5 appropriate to secure compliance with, the provisions of any rule
6 or regulation adopted pursuant to this section upon the petition
7 of the attorney general, or a city, town, or sewer district.

1 SECTION 10. Section 19A of Chapter 91 of the General Laws
2 is hereby amended by striking out in line 13 the words "five
3 hundred dollars" and inserting the words "twenty-five thousand
4 dollars".

1 SECTION 11. Section 142A of Chapter 111 of the General
2 Laws is hereby amended by striking out the third sentence and
3 inserting in place thereof the following sentence: "Any
4 municipality, corporation, or person which violates any such
5 regulation (a) shall be deemed guilty of a misdemeanor, and upon
6 conviction thereof shall be punished by a fine of not more than

7 twenty-five thousand dollars, or by imprisonment for not more
8 than one year, or both such time and imprisonment; or (b) shall
9 be subject to a civil penalty of not more than twenty-five thousand
10 dollars for each separate offense.”

1 SECTION 12. Section 142B of Chapter 111 is hereby amended
2 by striking out the last sentence of the second paragraph and
3 inserting in place thereof the following sentence: “Whoever
4 violates any such rule or regulation (a) shall be punished for each
5 such violation by a fine of not less than one hundred dollars nor
6 more than twenty-five thousand dollars, or by imprisonment for
7 one year, or both; or (b) shall be subject to a civil penalty not
8 to exceed twenty-five thousand dollars for each violation;
9 provided, however, that each day’s failure to comply shall
10 constitute a separate violation.”

1 SECTION 13. Section 40 of Chapter 131 of the General Laws
2 is hereby amended by inserting after the twenty-fourth paragraph
3 the following: — In addition to the duties previously set forth in
4 this section, a conservation commission and its agents, officers,
5 and employees, the commissioner, his agents and employees,
6 environmental officers, and any officer with police powers may
7 issue enforcement orders directing compliance with this section
8 and may undertake any other enforcement action authorized by
9 law. Any person who violates the provisions of this section may
10 be ordered to restore property to its original condition and take
11 other actions deemed necessary to remedy such violations.

12 No person shall remove, fill, dredge, or alter any area subject
13 to protection under this section without the required authoriza-
14 tion, or cause, suffer or allow such activity, or leave in place
15 unauthorized fill, or otherwise fail to restore illegally altered land
16 to its original condition, or fail to comply with an enforcement
17 order issued pursuant to this section. Each day such violation
18 continues shall constitute a separate offense except that any
19 person who fails to remove unauthorized fill or otherwise fails to
20 restore illegally altered land to its original condition after giving
21 written notification of said violation to the conservation
22 commission and the Department shall not be subject to additional

23 penalties unless said person thereafter fails to comply with an
24 enforcement order or order of conditions.

1 SECTION 14. Section 40 of said chapter 131 is hereby further
2 amended by striking the last two sentences of the last paragraph.

1 SECTION 15. The second paragraph of Section 13 of this act
2 shall take effect on August 13, 1974.