

By Mr. Chmura of Ludlow, petition of Steve T. Chmura for legislation to provide for the continuous cleaning and dredging of harbors and inland waters to improve fishing and boating and establishing the harbors and inland waters maintenance fund. Natural Resources and Agriculture.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy.

AN ACT PROVIDING FOR THE CONTINUOUS CLEANING AND DREDGING OF HARBORS AND INLAND WATERS TO IMPROVE FISHING AND BOATING AND ESTABLISHING THE HARBORS AND INLAND WATERS MAINTENANCE FUND.

*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. Clause (a) of section 13 of chapter 64A of the  
2 General Laws, as appearing in section 4 of chapter 715 of the  
3 acts of 1962, is hereby amended by striking out, in line 1, the  
4 words "and four-fifths".

1 SECTION 2. Said section 13 of said chapter 64A is hereby  
2 further amended by striking out clause (b), as so appearing,  
3 and inserting in place thereof the following clause:—

4 (b) Whereas not less than one and four-fifths per cent of  
5 the excise imposed by said section four, hereinafter called the  
6 balance, is obtained from the sale or importation of fuel used  
7 in producing or generating power for the operation of water-  
8 craft of every description, except seaplanes, said balance,  
9 after deducting all reimbursements allowed to persons who  
10 have used such fuel in producing or generating power in the  
11 operation of such watercraft shall be credited as follows:—  
12 Two-thirds of said balance to be allocated as follows:—one  
13 sixth to the inland fisheries and game fund established by  
14 section three A of chapter one hundred and thirty; two sixths  
15 to the public access fund established by section seventeen of  
16 of chapter twenty-one; two sixths to the marine fisheries fund

17 established by section two A of chapter one hundred and  
18 thirty; one sixth to the Recreational Boating Fund established  
19 under section sixteen of chapter ninety B; and one third of  
20 said balance to be allocated as follows:—One sixth to the  
21 department of public health, division of sanitary engineering  
22 to continue the aquatic weed control program and five sixths  
23 to the Harbors and Inland Waters Maintenance Fund estab-  
24 lished by section ten B of chapter ninety-one.

1 SECTION 3. Chapter 91 of the General Laws is hereby  
2 amended by inserting after section 10A the following sec-  
3 tion:—

4 *Section 10B.* Any sums which may be credited under section  
5 thirteen of chapter sixty-four A of the General Laws and all  
6 sums received by the commonwealth from the federal govern-  
7 ment on account of the activities of the department relative  
8 to the continuous maintenance dredging and cleaning of all  
9 areas within the harbors, inland waters and great ponds of  
10 the commonwealth and for the purpose of carrying out the  
11 provisions of section thirty-one of chapter ninety-one of the  
12 General Laws, shall be credited to a fund to be known as the  
13 Harbors and Inland Waters Maintenance Fund. All monies  
14 in said fund shall be appropriated only for the purpose of  
15 continuous maintenance dredging and cleaning of all areas  
16 within the harbors, inland waters and great ponds of the com-  
17 monwealth by the department through its division of water  
18 ways in order to protect the wetlands of the commonwealth  
19 the department of public works and the department of natural  
20 resources shall co-operate in the selection of sites for the dis-  
21 posal of dredged or excavated materials.

1 SECTION 4. Chapter 91 of the General Laws is hereby  
2 amended by inserting after section 49A the following four  
3 sections:—

4 *Section 49B.* The department shall remove or cause to be  
5 removed any wharf or pier located in the tide waters or tide  
6 lands of the commonwealth, which in the opinion of the de-  
7 partment is dilapidated, unsafe, a menace to navigation, or is  
8 a source of floating debris that is, or is liable to become, a  
9 menace to navigation.

10 *Section 49C.* If the owner of record of such wharf or pier  
11 is known to the department, the department shall give such  
12 owner written notice to remove such wharf or pier within a  
13 reasonable time therein specified. Such notice shall be deemed  
14 sufficient if delivered to the owner in hand, if left at his usual  
15 place of business or abode or if sent by certified mail to his  
16 last known post office address.

17 *Section 49D.* If such wharf or pier is not removed in a  
18 manner satisfactory to the department within the time speci-  
19 fied in such notice, the department may revoke forthwith any  
20 license or authority applicable to such wharf or pier issued  
21 or granted under the provisions of sections fourteen through  
22 eighteen, inclusive, of this chapter. If such wharf or pier is  
23 not removed in a manner satisfactory to the department within  
24 the time specified in such notice, or if the department has  
25 been unable to make sufficient service of such notice, the  
26 department shall remove, complete that removal or cause to  
27 be removed such wharf or pier. The owner of such wharf or  
28 pier shall be liable to the commonwealth for the costs and  
29 expenses of such removal. If the owner fails to reimburse the  
30 commonwealth within thirty days of such removal the depart-  
31 ment, in the name of the commonwealth, may take a lien on  
32 any real property held by the owner or said wharf or pier. The  
33 commonwealth shall place on record in the proper registry of  
34 deeds, or registry district of the land court as the case may  
35 be, an instrument in writing and under seal executed in com-  
36 mon form and acknowledged in the same manner as deeds for  
37 real property creating a lien upon such real estate for the  
38 amount of the costs and expenses of such removal. The instru-  
39 ment shall be recorded or registered without fee. Such lien  
40 shall be enforceable by a petition or bill in equity filed by  
41 the attorney general in the superior court or the probate court  
42 for the county wherein the real estate is situated. The sub-  
43 poena shall be returnable not more than thirty days subse-  
44 quent to the entry of the bill and shall contain a brief  
45 description of the property, sufficient to identify it, and a  
46 statement of the amount alleged to be due. Upon reimburse-  
47 ment for the amount due under the terms of such lien, the  
48 attorney general shall execute and deliver a satisfaction there-  
49 of, and upon its being recorded or registered, the lien shall

50 be dissolved as of the date of such recordation or registra-  
51 tion.

52 *Section 49F.* Reimbursement by Federal Government. The  
53 department may make application to the government of the  
54 United States for reimbursement of any amounts expended  
55 under any provision of the three preceding sections.