
Substituted by the House, as recommended by the committee on Bills in the Third Reading and as amended on motion of Mr. Dwinell of Milbury, for a bill with the same title (House, No. 6284). October 14.

The Commonwealth of Massachusetts

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

AN ACT ESTABLISHING A DIVISION OF ENVIRONMENTAL PROTECTION WITHIN THE DEPARTMENT OF THE ATTORNEY GENERAL, AND DIRECTING THE PREPARATION OF ENVIRONMENTAL IMPACT REPORTS.

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.. Chapter 12 of the General Laws is hereby
2 amended by inserting after section 11B the following section: —
3 *Section 11C.* There shall be in the department of the attorney
4 general a division of environmental protection. The attorney
5 general shall designate an assistant attorney general as director of
6 said division. Said director may appoint and remove, subject to
7 the approval of the attorney general, such expert, clerical or
8 other assistants as the work of the division may require.
9 The attorney general shall have the authority to prevent or
10 remedy damage to the environment caused by any person, body
11 corporate or politic or any agency, department, board, com-
12 mission, division or authority of the commonwealth or any
13 political subdivision thereof at the request of an appropriate
14 agency or on his own initiative, by commencing or intervening in
15 a proceeding before an appropriate agency, department board,
16 commission, division or authority, whether state or federal, and
17 before any political subdivision of the commonwealth, or by
18 commencing or intervening in any suit or action, civil or criminal,
19 to enforce any statute, ordinance, by-law or regulation or to
20 secure any common law right or remedy including, but not
21 limited to, the abatement of public nuisances. Each agency,

22 department, board, commission, division and authority of the
23 commonwealth shall give written notice to the attorney general
24 of all adjudicatory proceedings or public hearings in which
25 damage to the environment is or may be at issue.

26 As used in this section, "damage to the environment" shall
27 mean any destruction, damage or impairment, actual or probable,
28 to any of the natural resources in the commonwealth and shall
29 include, but shall not be limited to, air pollution, water
30 pollution, improper sewage disposal, pesticide pollution, ex-
31 cessive noise, improper operation of dumping grounds, or the
32 impairment or eutrophication of rivers, streams, flood plains,
33 lakes, ponds or other surface or subsurface water resources,
34 destruction of seashores, dunes, marine resources, wetlands, open
35 spaces, natural areas, parks or historic districts or sites. Damage
36 to the environment shall not include any insignificant destruc-
37 tion, damage or impairment to such natural resources.

38 The attorney general shall receive and maintain appropriate
39 records of complaints from interested persons relating to damage
40 to the environment, and upon the receipt thereof shall refer the
41 same to an appropriate agency or subdivision of the common-
42 wealth for such further corrective action as may be necessary to
43 prevent or remedy damage to the environment.

44 The attorney general may investigate the administration of
45 environmental statutes, ordinances or regulations by an agency,
46 department, board, commission, division or authority of the
47 commonwealth or of any political subdivision thereof and may
48 make such recommendations as are appropriate to the governor
49 and to the general court.

50 Nothing in this section shall be interpreted to derogate from
51 any existing common law or statutory right or remedy against
52 damage to the environment.

1 SECTION 2. Chapter 30 of the General Laws is hereby
2 amended by inserting after section 60, the following two
3 sections: –

4 *Section 61.* All agencies, departments, boards, commissions
5 and authorities of the commonwealth shall review, evaluate, and
6 determine the impact on the natural environment of all works,
7 projects or activities conducted by them and shall use all
8 practicable means and measures to minimize damage to the

9 environment. Unless a clear contrary intent is manifested, all
10 statutes shall be interpreted and administered so as to minimize
11 and prevent damage to the environment. Any determination
12 made by an agency of the commonwealth shall include a finding
13 describing the environmental impact, if any, of the project and a
14 finding that all feasible measures have been taken to avoid or
15 minimize said impact.

16 As used in this section and section sixty-two, "damage to the
17 environment" shall mean any destruction, damage or impair-
18 ment, actual or probable, to any of the natural resources of the
19 commonwealth and shall include but not be limited to air
20 pollution, water pollution, improper sewage disposal, pesticide
21 pollution, excessive noise, improper operation of dumping
22 grounds, impairment and eutrophication of rivers, streams, flood
23 plains, lakes, ponds, or other surface or subsurface water
24 resources; destruction of seashores, dunes, marine resources,
25 wetlands, open spaces, natural areas, parks, or historic districts or
26 sites. Damage to the environment shall not be construed to
27 include any insignificant damage to or impairment of such
28 resources.

29 *Section 62.* No agency, department, board, commission, or
30 authority of the commonwealth or any authority of any political
31 subdivision thereof shall commence any work, project, or activity
32 which may cause damage to the environment until sixty days
33 after it has published a final environmental impact report in
34 accordance with the provision of this section or until sixty days
35 after a public hearing on said report, provided that research,
36 planning, design and other preliminary work necessary to
37 describe and evaluate such project for the purposes of this
38 section may be undertaken.

39 An environmental impact report shall contain detailed
40 statements describing the nature and extent of the proposed
41 work and its environmental impact; all measures being utilized to
42 minimize environmental damage, any adverse short-term and
43 long-term environmental consequences which cannot be avoided
44 should the work be performed; and alternatives to the proposed
45 action and their environmental consequences. The preparation of
46 said report shall be commenced during the initial planning and
47 design phase of any work, project, or activity subject to this
48 section and the report shall be so prepared and disseminated as to

49 inform the originating agency, reviewing agencies, the ap-
50 propriate regional planning commission, the attorney general and
51 the public of the environmental consequences of state actions
52 and the alternatives thereto prior to any commitment of state
53 funds and prior to the commencement of the work, project, or
54 activity. All reviewing agencies, and any state agency, depart-
55 ment, board, commission, division or authority which has
56 jurisdiction by law or special expertise with respect to any
57 environmental impact involved shall affix their written comments
58 to the final impact report. In order to insure an interdisciplinary
59 review, the secretary of environmental affairs shall in conjunction
60 with any agency involved jointly approve the selection of any
61 consultant engaged to prepare the draft or final impact report.

62 The secretaries of the executive offices shall each promulgate
63 rules and regulations approved by the secretary of environmental
64 affairs to carry out the purposes of this section which shall be
65 applicable to all agencies, departments, boards, commissions,
66 authorities or instrumentalities within each of such executive
67 offices and which shall conform with the requirements of the
68 National Environmental Policy Act Pub. Law 91-190, and
69 amendments thereto. Any draft report, final report, and all
70 written comments required by said regulations shall be public
71 documents. Said reports shall be submitted to the secretary of
72 environmental affairs who shall issue a written statement
73 indicating whether or not in his judgment said reports adequately
74 and properly comply with the provisions of this section.

75 For the purposes of carrying out the provisions of this section,
76 funds made available for the purpose of design of or planning or
77 performing said work, project, or activity shall be available and
78 may be expended for the research, preparation, and publication
79 of the reports required by this section and expenses incidental
80 thereto, and said funds may be transferred or otherwise may be
81 made available to other state departments and resource agencies
82 designated by the secretary of environmental affairs for the
83 purpose of meeting the expenses incurred in evaluating the draft
84 or final impact report.

SECTION 3. Section sixty-one of chapter thirty of the
General Laws, inserted by section one of this act, shall take
effect on January first, nineteen hundred and seventy-two, and
section sixty-two of said chapter thirty shall take effect on July
first, nineteen hundred and seventy-two.