

By Mr. Angelo of Saugus, petition of Steven Angelo and other members of the General Court 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 Eighty-Nine.

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 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 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
9 as the secretary shall determine is reasonably suited to informing
10 all interested agencies and persons of the receipt of such filings,
11 the availability of such reports, and the issuance of such
12 certificates and determinations. The date of issuance of notice of
13 availability for any such report, certificate, or determination shall
14 be the date 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 of 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: — as to whether.

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. In order to accept
8 such an application, the secretary must find that the project has
9 the potential to cause damage to the environment, that the review
10 is a practical measure to avoid or minimize that damage, that there
11 is sufficient local authority over the project to assure
12 implementation of measures to avoid or minimize damage, that
13 all relevant local boards and officials agree to be bound by the
14 standards and procedures set for agencies in sections 61 and 62
15 through 62H, and that the review will not cause undue hardship.

16 If the secretary accepts a project for review under the provisions
17 of this section, the project shall be reviewed in the same way
18 as are projects requiring agency action, provided that the scope
19 of the review shall be limited to that part of the project which
20 is within the subject matter jurisdiction of the city or town permit
21 or other approval.

22 Section 62J. The attorney general may, upon the request of the
23 secretary or any ten persons domiciled in the Commonwealth,
24 bring action for injunctive relief against any person or agency for
25 violation of any provision of section 61 or sections 62 through
26 62I or any provision of any regulation or determination issued
27 thereunder, and the superior court shall have jurisdiction to enjoin
28 such violation and to grant such further relief as it may deem
29 appropriate. Any person who violates any provision of section 61
30 or sections 62 through 62I or any provision of any regulation or
31 determination issued thereunder, may be subject to a civil penalty
32 not to exceed twenty five thousand dollars per day for each such
33 violation; provided, however, that each day such violation occurs
34 or continues following notice of the violation by the secretary shall
35 be a separate offense. The superior court shall have jurisdiction
36 to enforce the provisions of this section.

