

SENATE. No. 2227

The Commonwealth of Massachusetts

SENATE, May 28, 1998.

The committee on Natural Resources and Agriculture, to whom was referred the petition (accompanied by bill, Senate, No. 2171) of Susan C. Fargo, Stephen M. Brewer, John H. Stasik, Pamela P. Resor and other members of the General Court for legislation relative to creating an exotic aquatic species plant control program, reports the accompanying bill (Senate, No. 2227).

For the committee,

LOIS G. PINES.

The Commonwealth of Massachusetts

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

AN ACT CREATING AN EXOTIC AQUATIC SPECIES PLANT CONTROL PROGRAM.

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 6I of chapter 21 of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended by strik-
3 ing out, in lines 5 and 6, the words “sections six F and six F½ of
4 chapter twenty-one and sections three, twenty-two and thirty-six
5 of chapter ninety B” and inserting in place thereof the follow-
6 ing words:— sections 6F, 6F½ and 37G of this chapter and sec-
7 tions 3, 22 and 36 of chapter 90B.

1 SECTION 2. Said chapter 21 of the General Laws is hereby
2 further amended by inserting after section 37A the following
3 section:—

4 Section 37A½. For the purposes of sections 37B through 37H,
5 inclusive, the following terms and phrases shall have the follow-
6 ing meanings, unless the context clearly requires otherwise:

7 “Exotic aquatic plant”, any aggressive or invasive aquatic plant
8 species which is not indigenous or native to the commonwealth
9 and which is harmful to the ecological integrity of the Common-
10 wealth’s lakes, ponds, designated sections of rivers, or designated
11 sections of streams.

12 “Designated sections of rivers”, those portions of rivers to be
13 covered by the exotic aquatic species control program as deter-
14 mined by the commissioner of the department of environmental
15 management.

16 “Designated sections of streams”, those portions of streams to
17 be covered by the exotic aquatic species control program as deter-
18 mined by the commissioner of the department of environmental
19 management.

20 “Department”, the department of environmental management.

1 SECTION 3. Section 37C of said chapter 21 of the General
2 Laws, as so appearing, is hereby amended by inserting after the
3 word “municipalities,” in line 1, the following words:— or a lake
4 district.

1 SECTION 3A. Section 37D of said chapter 21 of the General
2 Laws, as so appearing, is hereby amended by adding the following
3 sentence at the end thereof.— “In all cases, the department shall
4 consider whether the proposed project is included in or compat-
5 ible with applicable law and regulations”.

1 SECTION 4. Said chapter 21 is hereby amended by inserting
2 after section 37D the following four sections:—

3 Section 37E. (a) In addition to the aquatic nuisance control pro-
4 gram established by sections 37B through 37D, the department
5 shall establish and maintain an exotic aquatic species control pro-
6 gram, for the purpose of promoting the ecological integrity of the
7 commonwealth’s waterways by controlling the spread of exotic
8 aquatic plants in lakes, ponds, designated sections of rivers, and
9 designated sections of streams.

10 (b) To coordinate program activities and provide the necessary
11 technical oversight, the department shall retain a program coordi-
12 nator with experience in lake, pond, river, and stream management
13 and an aquatic biologist with experience in aquatic plant manage-
14 ment. The program coordinator will be responsible for overall
15 program management, including administration of the grant pro-
16 gram, development of educational materials and workshops, coor-
17 dination with monitoring program cooperators, and coordination
18 of activities with other lake and pond program activities of the
19 department and other related state and federal programs. The
20 aquatic biologist will be responsible for field work to survey
21 water bodies for exotic aquatic species, technical review and site
22 inspections of projects funded by the grant program, and coordi-
23 nation and oversight of research and pilot projects funded by the
24 program. All the programs and activities pursuant to this subsec-
25 tion shall be coordinated with applicable law and regulations.

26 (c) The department shall develop a monitoring program that
27 will, in coordination with other state planning and remediation
28 activities within the executive office of environmental affairs,

29 comprehensively survey Massachusetts' lakes, ponds, designated
30 sections of rivers, and designated sections of streams to identify
31 and map exotic aquatic plant infestations and provide technical
32 assistance and training to lake and pond associations, watershed
33 associations, and volunteer water quality monitoring groups in
34 order to enable organizations to assume monitoring responsibility
35 with technical assistance from the department; and shall accom-
36 plish the exotic aquatic species control program monitoring and
37 technical assistance effort by forming a cooperative partnership
38 between the department and appropriate state universities and
39 other research facilities. The partnership will provide survey
40 teams of trained graduate and undergraduate students to survey
41 water bodies between June 1 and September 1.

42 (d) The department shall maintain and publish once per cal-
43 endar year a database which shall include, but not be limited to,
44 the following information: (1) the location and extent of all known
45 exotic aquatic species infestations in Massachusetts lakes, ponds,
46 designated sections of rivers, and designated sections of streams
47 including all monitoring data gathered through the monitoring
48 efforts described in subsection (c) and other state agency moni-
49 toring programs; (2) pre- and post-project water quality and vege-
50 tation survey data required for each program grant project; (3) the
51 amount of money spent on any project or survey.

52 (e) Communities receiving grants pursuant to section 37D
53 and 37F shall develop a watershed management and exotic aquatic
54 species control plan, which will (1) identify root causes of the
55 existing exotic aquatic species problem, including any nutrient
56 loading from the watershed that may exacerbate exotic aquatic
57 plant growth, (2) specify control techniques to reduce the existing
58 infestation and associated water quality problems, provided that
59 such control techniques do not adversely impact rare species listed
60 under chapter 131A, and (3) identify and specify control tech-
61 niques that will minimize adverse environmental impact to the
62 surrounding environment; and (4) develop a plan specifying best
63 management practices to prevent future infestations from entering,
64 or spreading from the water body. All monitoring, identification
65 and control efforts undertaken pursuant to this subsection shall be
66 coordinated with such efforts undertaken under applicable law and
67 regulations.

68 (f) The department shall develop a public education program to
69 inform lake and pond users about the spread of exotic aquatic
70 plants and measures that individuals can take to prevent their fur-
71 ther spread, train volunteers to identify exotic aquatic species,
72 allowing the greatest chance for early identification and treatment
73 before the species becomes strongly established in a water body,
74 and produce educational materials which provide an analysis of
75 all best management practices available to control exotic aquatic
76 species infestations. This education effort will be targeted at recre-
77 ational lake and pond users, shorefront property owners, lake and
78 pond associations, and conservation commissions.

79 Section 37F. The department shall establish a grant program to
80 fund immediate and long-term efforts by public and nonpublic
81 entities to remove and control exotic aquatic species infestations
82 in lakes, ponds, designated sections of rivers, and designated sec-
83 tions of streams using best management practices. The exotic
84 aquatic species control grants program will be administered as a
85 sub-category of the aquatic nuisance control grants program estab-
86 lished by sections 37B through 37D. The department will fund
87 research and pilot projects at Massachusetts universities, colleges,
88 and other facilities to test new and emerging technologies for con-
89 trolling exotic aquatic species.

90 Section 37G. The department shall maintain and make public a
91 list of exotic aquatic plants, including any aquatic plants which
92 have infested neighboring states or pose a threat to the waterways
93 of the commonwealth. The list of exotic aquatics shall be agreed
94 to by an nine member technical advisory committee comprised of
95 the commissioner of the department of environmental manage-
96 ment or a designee thereof, the director of the division of fisheries
97 and wildlife or a designee thereof, the commissioner of the depart-
98 ment of environmental protection or a designee thereof, commis-
99 sioner of the department of food and agriculture or a designee
100 thereof, one member with botanical expertise from a
101 Massachusetts college or university appointed by the secretary of
102 environmental affairs, one member appointed by the governor
103 from a list of three individuals submitted to the governor by the
104 Massachusetts association of conservation commissions, one
105 member appointed by the governor from a list of three individuals
106 submitted to the governor by the Massachusetts Nursery and

107 Landscapers Association and one member appointed by the gov-
108 ernor from a list of three individuals submitted to the governor by
109 the Congress of Lakes and Ponds Association, and one member
110 appointed by the governor from a list of three individuals sub-
111 mitted to the governor by the Massachusetts Farm Bureau
112 Federation. Said committee shall meet no less than twice in any
113 given calendar year, and the members thereof shall serve for the
114 term of three years. Said committee shall publish advance notice
115 of its meetings in the MEPA monitor and provide opportunities for
116 public comment at each meeting. Three members of the initial
117 committee shall serve a term of one year, three such members
118 shall serve a term of two years, and three such members shall
119 serve a term of three years. Upon expiration of each of these
120 respective terms, all additional appointments shall be for a term of
121 three years.

122 The list of exotic aquatic plants shall be reviewed by the nongame
123 advisory committee established by section 5B of chapter 131 and
124 approved by the fisheries and wildlife board established under
125 section 7 of chapter 21. No person shall knowingly possess, sell,
126 distribute, introduce, transport, propagate, traffic, or cause to be
127 introduced any plant designated as an exotic aquatic plant into any
128 waterway of the commonwealth without prior approval of the
129 department. Such permission shall only be granted upon petition
130 and a finding by the department that the exception constitutes lim-
131 ited use and possession of exotic aquatic plants for expressly con-
132 ditioned projects of legitimate research. For the purposes of this
133 section, the unintentional transportation or dispersal of an exotic
134 aquatic plant, its parts or seeds thereof in the course of common
135 and ordinary boating activities and practices, does not constitute a
136 violation of this act provided it can be demonstrated that best
137 efforts have been taken to remove said plant, parts or seeds before
138 any further incidence of transport.

139 This section shall be enforced by the environmental police of
140 the division of law enforcement within the department of fish-
141 eries, wildlife and environmental law enforcement. Any person
142 who violates this section shall be punished by a fine of not more
143 than \$5000 for each such violation. For purposes of this chapter,
144 the possession, selling, distribution, introduction, transportation,
145 propagation or trafficking of any given species of exotic aquatic

146 plant shall be deemed a single violation. The sums received from
147 payment of fines assessed pursuant to this section shall be
148 deposited in the environmental law enforcement fund established
149 pursuant to section 6I of chapter 21.

150 Section 37H. The department of environmental management
151 shall promulgate rules and regulations to carry out the provisions
152 of sections 37E through 37G.

1 SECTION 5. Section 6F½ of chapter 21, as appearing in
2 the 1996 Official Edition, is hereby amended by inserting the
3 following new paragraph:—

4 A person notified to appear before the clerk of a district court
5 as provided in said section six F for violations of section 37G of
6 chapter 21 may appear and pay a fine of fifty dollars.

1 SECTION 6. This act shall take effect subject to appropriation.

