

SENATE No. 328

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen M. Brewer

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to protect public water supply lands.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Stephen M. Brewer</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>

SENATE No. 328

By Mr. Brewer, a petition (accompanied by bill, Senate, No. 328) of Stephen M. Brewer, James Arciero, Elizabeth A. Poirier, James J. O'Day and other members of the General Court for legislation to protect water supply lands. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2552 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to protect public water supply lands.

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 39G of chapter 40 of the General Laws is hereby amended by
2 striking out the words "three hundred dollars or by imprisonment for not more than one year, or
3 both", in lines 8-9, inclusive, as appearing in the 2008 Official Edition, and inserting in place
4 thereof the following words:- \$5,000 or by imprisonment in state prison for not more than 5
5 years or in the house of correction for not more than 2? years, or by both such fine and
6 imprisonment.

7 SECTION 2. Chapter 92A1/2 of the General Laws, as appearing in the 2008 Official
8 Edition, is hereby amended by striking out section 9 and inserting in place thereof the following
9 section:-

10 Section 9. A person who without lawful authority takes or diverts water from a water
11 supply within the watershed system of the division, or who corrupts or defiles the water supply,
12 or a source of the water supply, or who injures, destroys or interferes with property held or used
13 by the authority for the purpose of constructing, operating or maintaining the watershed system,
14 or who violates or refuses to comply with a rule, regulation or order of the department shall be
15 punished by a criminal fine of not more than \$50,000 or by imprisonment in state prison for not
16 more than 5 years or in the house of correction for not more than 2? years, or by both such fine
17 and imprisonment. In cases of continuing violation, the maximum fine shall be \$10,000 day for
18 each day the violation occurs or continues. Notwithstanding any limitation on criminal penalties
19 set forth in the preceding sentence, a person convicted of the wanton or malicious destruction of
20 or injury to property used in the construction, operation or maintenance of the watershed system
21 shall also be liable in tort to the department for triple the amount of damages thereby caused. The
22 fine or tort judgment shall be payable to the treasury of the commonwealth.

23 SECTION 3. Section 170 of chapter 111 of the General Laws is hereby amended by
24 striking out the words "imprisonment for not more than two years, or", in lines 6-7, inclusive, as
25 appearing in the 2008 Official Edition, and inserting in place thereof the following words:-
26 imprisonment in state prison for not more than 5 years or in the house of correction for not more
27 than 2? years, or by.

28 SECTION 4. Chapter 266 of the General Laws is hereby amended by inserting after
29 section 123, as appearing in the 2008 Official Edition, the following section:-

30 Section 123A. (a) Whoever willfully trespasses upon any public source of water or public
31 water supply facilities or land, after having been forbidden to do so by a person who has lawful

32 control of the water, facilities or land, or an agent thereof, whether directly or by notice posted
33 thereon, with the intent to corrupt, pollute or defile such public source of water, shall be
34 punished by a fine of not less than \$1,000 nor more than \$5,000 or by imprisonment in the house
35 of correction for not more than 2? years or in state prison for not more than 5 years, or by both
36 such fine and imprisonment. Whoever is convicted of a second or subsequent violation of this
37 section shall be punished by a fine of not less than \$1,000 nor more than \$10,000 or by
38 imprisonment in state prison for not less than 5 years nor more than 10 years, or by both such
39 fine and imprisonment.

40 (b) Whoever willfully trespasses upon any public source of water or public water supply
41 facilities or land, after having been forbidden to do so by a person who has lawful control of the
42 water, facilities or land, or an agent thereof, whether directly or by notice posted thereon, shall be
43 punished by a fine of not less than \$250 nor more than \$1,000.

44 (c) In addition to the punishments outlined in sections (a)-(b), inclusive, and not in lieu
45 thereof, restitution in the amount of costs associated with water quality analysis and any
46 subsequent investigation to determine water safety and security of the facilities or land may be
47 ordered by a court, after a hearing relative to such restitution.

48 (d) A law enforcement officer may arrest without a warrant any person that the officer
49 has probable cause to believe has violated this section.