

**SENATE . . . . . No. 2617**

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**The Commonwealth of Massachusetts**

**In the One Hundred and Ninetieth General Court  
(2017-2018)**

SENATE, July 19, 2018

The committee on Ways and Means to whom was referred the Senate Bill promoting awareness of sewage pollution in public waters (Senate, No. 2394),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2617).

For the committee,  
Karen E. Spilka

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninetieth General Court  
(2017-2018)  
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An Act promoting awareness of sewage pollution in public waters.

*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 21 of the General Laws is hereby amended by inserting after section  
2 43 the following section:-

3           Section 43A. (a) As used in this section, the following words shall, unless the context  
4 clearly requires otherwise, have the following meanings:-

5           “Combined sewer system”, a sewer system designed to collect and convey storm water  
6 runoff and sewage in shared piping.

7           “Department”, the department of environmental protection.

8           “Discharge” or “discharging”, a release or diversion of sewage, industrial waste or other  
9 effluent, which is untreated or partially treated, including from a combined sewer overflow, that is  
10 emitted from an outfall directly or indirectly into waters of the commonwealth.

11           “Outfall”, an outlet designed for the purpose of allowing a discharge that is part of, or  
12 connected to, a combined sewer system, sanitary sewer system or treatment works, including a

13 connection to any such system or facility, intended to allow wastewater to divert or bypass  
14 treatment by a facility.

15 “Permittee”, a person granted a permit under section 43 to operate and maintain a particular  
16 outlet for the discharge of pollutants into waters of the commonwealth or a person discharging  
17 pollutants from an outlet without a required permit or in violation of the conditions of a valid  
18 permit.

19 (b) A permittee shall issue a public advisory when there is a discharge from the permittee’s  
20 outfall, in accordance with this section. The department may allow a permittee to issue a combined  
21 advisory message when a weather event or other related occurrence involves more than 1 of the  
22 permittee’s outfalls discharging into the same water body or waterway. To continue to inform the  
23 public about a discharge or potential environmental hazard from a discharge, a permittee shall  
24 update its advisory as required by regulation or directive of the department.

25 A public advisory shall, to the extent a permittee has the information available, describe in  
26 plain language the: (i) outfall’s location; (ii) approximate time, date and duration of the discharge;  
27 (iii) estimated discharge volume; (iv) overall discharge water quality determined by any pre-  
28 treatment of the effluent to remove bacteria, solid wastes and other pollutants; (v) waters and land  
29 areas affected or expected to be affected by the discharge; (vi) identity of the outfall permittee;  
30 (vii) precautionary measures for the public to avoid health risks from contact with effluent; and  
31 (viii) information that the department shall prescribe by regulation or directive.

32 (c) Not later than 2 hours after the discovery of a discharge from the permittee’s outfall, a  
33 permittee shall issue a public advisory to the department of public health, the municipal board of  
34 health or the health department where the outfall is located, and to the department. The department

35 shall adopt regulations relative to the procedures and circumstances in which the permittee must  
36 notify municipalities impacted by the outfall; provided, however, notification shall be provided to  
37 all municipalities directly affected by such a discharge.

38 (d) As soon as possible, but not later than 4 hours after discovery of a discharge from the  
39 permittee's outfall, the permittee shall issue a public advisory by email or text messaging to  
40 individuals that subscribe to receive notifications about a discharge from the permittee's outfall.  
41 The department may, by regulation, require that permittees provide advisories by other means,  
42 including, but not limited to, telephone voice messaging, online and social media.

43 (e) A permittee shall work with the department to establish the metering, modeling or other  
44 method the permittee will use to determine when a discharge occurs at its outfall to comply with  
45 the notification requirements of this section. If an outfall will not have metering equipment to  
46 detect and transmit reliable information about a discharge within the timeframes established by  
47 subsections (c) and (d), the permittee shall apply to the commissioner for authorization to use  
48 another method. The commissioner shall approve the proposed method, provided the permittee  
49 can obtain reliable information by such method about any discharge from its outfall and issue  
50 public advisories within the timeframes established by subsections (c) and (d).

51 If the proposed method or the current discharge detection capabilities of the permittee's  
52 outfall will not provide timely or reliable information, the commissioner may extend the time  
53 for a permittee to issue a public advisory, provided that such time shall be extended only as  
54 necessary, and by not more than 24 hours after discovery of the discharge. A permittee that has  
55 been granted an extension shall work with the department to establish improvements that need to

56 be made, if any, to detect an outfall discharge within the timeframes established by subsections (c)  
57 and (d).

58       Upon application of the permittee, the commissioner may waive any requirement under  
59 this section related to permittee's outfall, provided that: (i) the outfall is decommissioned; or (ii)  
60 there has not been significant discharge from the outfall, as determined by the department, during  
61 the preceding 5 years; and (iii) the waiver will not pose a substantial threat to public health or to  
62 the environment. A waiver shall be valid for not more than 5 years. Authorizations and waivers  
63 allowed by the commissioner under this subsection shall be in writing and shall specify the  
64 conditions for each exception.

65       (f) The department shall establish and maintain a public website to provide information  
66 about discharge notifications sent by permittees to the department under subsection (b). The  
67 website shall display information about current outfall discharges in the commonwealth within 24  
68 hours of the department receiving such data, provide an access point for subscriptions to public  
69 advisories regarding discharges and timely updates about those discharges.

70       (g) Not later than May 15 of each year, the department shall issue a report providing a  
71 summary of all outfall discharge activity reported for the previous calendar year, including  
72 information about total discharge volumes, frequencies and pretreatment of effluent from any  
73 outfall discharging during that year into water bodies or waterways of defined regional areas.  
74 Annual reports shall be posted on the department's public website.

75       SECTION 2. The department shall adopt regulations for the implementation and  
76 administration of section 43A of chapter 21 of the General Laws not later than January 1, 2019.