SENATE DOCKET, NO. 1979 FILED ON: 1/20/2017

SENATE . . . . . No. 448

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

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 promoting awareness of safe recreation in public waterways.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Patricia D. Jehlen	*Second Middlesex*	
James M. Cantwell	*4th Plymouth*	*1/30/2017*
Daniel J. Ryan	*2nd Suffolk*	*1/30/2017*
James B. Eldridge	*Middlesex and Worcester*	*2/2/2017*
Jay D. Livingstone	*8th Suffolk*	*2/2/2017*
Kenneth I. Gordon	*21st Middlesex*	*2/2/2017*
Mike Connolly	*26th Middlesex*	*2/2/2017*
Sal N. DiDomenico	*Middlesex and Suffolk*	*2/2/2017*
Mary S. Keefe	*15th Worcester*	*2/2/2017*
Denise Provost	*27th Middlesex*	*2/3/2017*
Jack Lewis	*7th Middlesex*	*2/10/2017*
Natalie Higgins	*4th Worcester*	*3/16/2017*
Kathleen O'Connor Ives	*First Essex*	*11/3/2017*
Barbara A. L'Italien	*Second Essex and Middlesex*	*11/29/2017*
Juana B. Matias	*16th Essex*	*11/30/2017*
Frank A. Moran	*17th Essex*	*12/5/2017*
Andres X. Vargas	*3rd Essex*	*1/16/2018*
Michael J. Barrett	*Third Middlesex*	*1/18/2018*

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By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 448) of Patricia D. Jehlen, James M. Cantwell, Daniel J. Ryan, James B. Eldridge and other members of the General Court for legislation to promote awareness of safe recreation in public waterways. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *433* OF 2015-2016.]

The Commonwealth of Massachusetts

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

An Act promoting awareness of safe recreation in public waterways.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 26A of chapter 21 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting the following definitions:-

"CSO discharge", a discharge of treated, untreated, or incompletely treated sewage, industrial waste, or other waste into, directly or indirectly, a public waterway from a combined sewer system that has exceeded its maximum capacity.

"CSO outfall", a location at which a combined sewer system is designed to produce a CSO discharge.

"Combined sewer system", a system so designed or constructed as to allow surface runoff to enter the conduit carrying sewage, industrial waste, or other waste.

“Discharge flow data,” measurements consisting of the date, time, and volumetric flow rate per hour of CSO discharge collected using a meter at a particular CSO outfall and the total rainfall measured at a proximate location in the same watershed as the outfall.

“Discharge notifications,” reports written in plain language and delivered by electronic mail to registered members of the public to notify them of all CSO discharges that occurred in a watershed in the past 24 hours.

“Level of treatment”, a description in plain language of the measures taken to remove contaminants from sewage before its discharge at a CSO outfall. This description should include, but not be limited to, disinfectant procedures undertaken to remove bacteria, filtration to remove solids, and any nutrient removal procedures.

“Public CSO discharge alert”, an announcement from a permittee that a CSO discharge has occurred at one or more of their permitted outfalls, which includes the time, location, and estimated volume of the discharge at each outfall, posted on a publicly accessible electronic network, mobile application, or other electronic media.

“Watershed”, the geographic area and natural basin from within which water drains or in natural course would drain into a major water of the commonwealth, as determined by the department of environmental protection.

SECTION 2. Section 43 of chapter 21 of the General Laws, as so appearing, is hereby amended by inserting after paragraph (10) the following paragraphs:-

(11) Permits or variances granted under this section for any CSO outfalls emptying into public waterways shall include the following requirements:

(a) The permittee shall install and maintain metering equipment at the outfall to collect discharge flow data, unless granted a waiver under paragraph (12) of this section. This data shall be collected and made available to the department of environmental protection electronically on a real time basis.

(b) The permittee shall, no more than one hour after the discovery of a discharge, issue a public CSO discharge alert.

(c) The permittee shall install and maintain signage at a clearly visible site adjacent to the CSO outfall and any public access point to the waterway which the department of environmental protection determines to be affected by CSO discharges at the CSO outfall. The sign shall, using plain language and pictographic figures, describe the existence of the CSO outfall, warn of the potential threat to public health that may be posed by recreating in the waters at the outfall or downstream of the outfall after a wet weather storm event, recommend precautions the public should take to ensure safe recreation in and around the waterway, and include all information required under federal law. The department of environmental protection shall coordinate with the department of conservation and recreation to administer placement of signage on department of conservation and recreation lands.

(12) A permittee may petition the department of environmental protection for a waiver from the requirements under (11)(a) of this section if an outfall's annual discharge is less than five-hundred-thousand gallons and if the permittee is unable to perform automatic metering at a particular outfall. That waiver petition shall include:

(a) a justification for why metering is not possible at this outfall, including an estimate of the annual discharge volume;

(b) a description of an alternate method for estimating the timing and volume of unmetered CSO discharges and/or the water quality at the location of the outfall following the discharge and how this information will be transmitted to the department of environmental protection;

(c) the area covered by the measurement method;

(d) a description of how the permittee will make public CSO discharge alerts no later than 1 hour after any CSO discharge using the alternative method described in (12)(b)

The department of environmental protection shall grant the waiver if it determines that the petition demonstrates that the proposed method has sufficient rigor to reveal hazards to public health and ecology around and downstream of outfall locations and that the notification plan will provide for timely information. Each waiver shall last for 5 years.

SECTION 3. Chapter 21 of the General Laws is hereby amended by inserting after Section 43 the following section:-

Section 43A. (a) The department of environmental protection shall establish and maintain a website for reporting to the public any CSO discharges, using the public CSO discharge alerts collected under paragraphs (11) and (12) of Section 43 of this chapter.

The website shall have features including, but not limited to, (1) a report of all discharge flow data collected from each CSO outfall permitted under Section 43, updated within 24 hours of receipt of the data from the permittee, (2) past daily CSO discharge monitoring data

maintained for a period not less than ten years, (3) an online application, located in a clearly visible location, by which any member of the public may receive discharge notifications by electronic mail related to any particular outfall or watershed, to be delivered at the same time the discharge commences, (4) a record of all past discharge notifications.

(b) The department of environmental protection shall issue an annual watershed CSO discharge report by May 15th of each year to the registered recipients of discharge notifications, which shall include an annual summary report of the previous year's CSO discharge volumes and frequencies, the operating authorities of all CSO outfalls in the watershed, and the general information included in the discharge notifications.

(c) The department of environmental protection may post any available discharge flow data collected prior to the adoption of the permit requirement to this website.

(d) Public CSO discharge alerts shall state (1) the approximate total volume of all CSO discharges, (2) the location of all discharging outfalls and their operating authority, (3) the approximate time and date when each CSO discharge began and ended, (4) the level of treatment of each CSO discharge, and (5) the geographic area that may be affected by its flow or by potential flooding. Furthermore, the notification shall include the following information, (1) a list of common primary and secondary contact activities which the department of environmental protection has identified that the waterway can support in dry conditions, (2) information about the public health implications of CSO discharges and what recreational activities are impaired under these circumstances, (3) widely applicable precautionary measures that recreational users can take to avoid health risks including, but not limited to, advisories against primary or secondary contact activities within a certain time period of rainfall or CSO discharge events, and

(4) a list of all authorities that operate outfalls in the watershed. Registered notification recipients shall include the two largest circulation newspapers in each watershed, as identified by the department of environmental protection, containing a CSO outfall, all boards of health as defined in Section 1 of chapter 111 operated by municipalities in the watershed, and the department of public health.