

**SENATE . . . . . No. 490**

**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 sewage pollution in public waters.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/28/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/28/2019</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>1/28/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/29/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/29/2019</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>1/29/2019</i>
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>	<i>1/29/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>1/29/2019</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>1/30/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/30/2019</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>1/30/2019</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>1/31/2019</i>
<i>Edward J. Kennedy</i>	<i>First Middlesex</i>	<i>1/31/2019</i>
<i>Bradford Hill</i>	<i>4th Essex</i>	<i>1/31/2019</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>1/31/2019</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/31/2019</i>

<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/31/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/31/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/31/2019</i>
<i>Barry R. Finegold</i>	<i>Second Essex and Middlesex</i>	<i>1/31/2019</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/1/2019</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/1/2019</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/1/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/1/2019</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>2/1/2019</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/1/2019</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>2/4/2019</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>2/4/2019</i>
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	<i>2/6/2019</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>2/8/2019</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>2/8/2019</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>	<i>2/8/2019</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>2/14/2019</i>

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By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 490) of Patricia D. Jehlen, Jason M. Lewis, Mike Connolly, Bruce E. Tarr and other members of the General Court for legislation to promote awareness of sewage pollution in public waters. Environment, Natural Resources and Agriculture.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
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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  
2 section 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  
10 is 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  
16 particular outlet for the discharge of pollutants into waters of the commonwealth or a person  
17 discharging pollutants from an outlet without a required permit or in violation of the conditions  
18 of a valid permit.

19 (b) A permittee shall issue a public advisory when there is a discharge from the  
20 permittee’s outfall, in accordance with this section. The department may allow a permittee to  
21 issue a combined advisory message when a weather event or other related occurrence involves  
22 more than 1 of the permittee’s outfalls discharging into the same water body or waterway. To  
23 continue to inform the public about a discharge or potential environmental hazard from a  
24 discharge, a permittee shall update its advisory as required by regulation or directive of the  
25 department. The permittee shall make a public announcement in the two largest newspapers in  
26 local circulation that public advisories will be issued for discharges and provide information for  
27 how the public can register to receive these advisories.

28 A public advisory shall, to the extent a permittee has the information available and  
29 subject to the department’s review, describe in plain language the: (i) outfall’s location; (ii) the  
30 approximate time and date when each CSO discharge began and ended; (iii) estimated discharge  
31 volume; (iv) overall discharge water quality determined by any pre treatment of the effluent to  
32 remove bacteria, solid wastes and other pollutants; (v) waters and land areas affected or

33 expected to be affected by the discharge; (vi) identity of the outfall permittee; (vii) precautionary  
34 measures for the public to avoid health risks from contact with effluent; and (viii) information  
35 that the department shall prescribe by regulation or directive.

36 (c) Not later than 2 hours after the discovery of a discharge from the permittee's outfall, a  
37 permittee shall issue a public advisory to the department of public health, the municipal board of  
38 health or the health department and town manager or mayor where the outfall is located, and to  
39 the department. The department shall adopt regulations relative to the procedures and  
40 circumstances in which the permittee must notify municipalities impacted by the outfall;  
41 provided, however, notification shall be provided to all municipalities directly affected by such a  
42 discharge.

43 (d) As soon as possible, but not later than 2 hours after discovery of a discharge from the  
44 permittee's outfall, the permittee shall issue a public advisory by email or text messaging to  
45 individuals that subscribe to receive notifications about a discharge from the permittee's outfall.  
46 The department may, by regulation, require that permittees provide advisories by other means,  
47 including, but not limited to, telephone voice messaging, online and social media.

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

54 can obtain reliable information by such method about any discharge from its outfall and issue  
55 public advisories within the timeframes established by subsections (c) and (d).

56         If the proposed method or the current discharge detection capabilities of the permittee's  
57 outfall will not provide timely or reliable information, the commissioner may extend the time for  
58 a permittee to issue a public advisory, provided that such time shall be extended only as  
59 necessary, and by not more than 24 hours after discovery of the discharge. A permittee that has  
60 been granted an extension shall be directed by the department to establish improvements that  
61 need to be made, if any, to detect an outfall discharge within the timeframes established by  
62 subsections (c) and (d). Upon application of the permittee, the commissioner may waive any  
63 requirement under this section related to permittee's outfall, provided that: (i) the outfall is  
64 decommissioned; or (ii) there has not been significant discharge from the outfall, as determined  
65 by the department, during the preceding 5 years; and (iii) the waiver will not pose a substantial  
66 threat to public health or to the environment. A waiver shall be valid for not more than 5 years.  
67 Authorizations and waivers allowed by the commissioner under this subsection shall be in  
68 writing and shall specify the conditions for each exception.

69         (f) The permittee shall install and maintain conspicuous warning signage at the location  
70 of its outfall and at public access points to waters affected by a potential discharge from  
71 permittee's outfall as determined by the department, including entrances to boat ramps, piers and  
72 designated swimming areas. Signage shall be suitable for its location and be of the size and form  
73 of notice as the department shall prescribe in compliance with this section. Each sign shall  
74 include the following information using plain language and symbols to (1) identify the existence  
75 of the outfall, (2) inform about any weather events that can cause a discharge, (3) warn of the  
76 potential threat to public health by recreating in, or using waters and shores affected by a

77 discharge, (4) recommend precautions for safe recreation around affected waters and shores, and  
78 (5) provide information for the public to subscribe to notifications about discharges in area  
79 waters. Such signage shall conform to all applicable provisions of federal law and related rules  
80 and regulations, notwithstanding current permit requirements. The department shall coordinate  
81 with the department of conservation and recreation, municipalities, and other landowners that  
82 have public access points that may be affected by a discharge, for the placement and  
83 maintenance of such signage on public and private property.

84 (g) The department shall establish and maintain a public website to provide information  
85 about discharge notifications sent by permittees to the department under subsection (b). The  
86 website shall display information about current outfall discharges in the commonwealth within  
87 24 hours of the department receiving such data, provide an access point for subscriptions to  
88 public advisories regarding discharges and timely updates about those discharges.

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

94 SECTION 2. The department shall adopt regulations for the implementation and  
95 administration of section 43A of chapter 21 of the General Laws not later than 18 months after  
96 the passage of the Act.