

**HOUSE . . . . . No. 4921**

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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.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith certain requirements and procedures to notify the public of sewage discharges into the waters of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.

*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 system  
10 overflow, that 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. A  
23 permittee shall update its advisory as required by the department. A permittee shall issue an  
24 updated public advisory every 8 hours for an ongoing discharge and within 2 hours when a  
25 discharge ceases or is projected to cease, unless the department requires otherwise.

26 A public advisory shall, to the extent a permittee has the information available, describe  
27 in plain language the: (i) outfall’s location; (ii) approximate time, date and duration of the  
28 discharge; (iii) estimated volume of the outfall discharge based on the average discharge from  
29 data reported to the department for the prior 3 calendar years; (iv) waters and land areas affected  
30 or expected to be affected by the discharge; (v) identity of the outfall permittee; (vi)  
31 precautionary measures for the public to avoid health risks from contact with effluent; and (vii)

32 any other information required by the department. In addition, the public advisory shall include a  
33 statement that the outfall discharge consists, or likely consists, of untreated sewage and waste.

34 (c) As soon as possible, but no later than 2 hours after the discovery of a discharge from  
35 the permittee's outfall, a permittee shall issue a public advisory and any updates required by  
36 subsection (b) to the department of public health, the municipal board of health or the health  
37 department where the outfall is located, any municipality directly impacted by the discharge and  
38 to the department.

39 (d) Not later than 2 hours after discovery of a discharge from the permittee's outfall, the  
40 permittee shall issue a public advisory and any updates required by subsection (b) by email or  
41 text messaging to individuals subscribed to receive notifications about a discharge from the  
42 permittee's outfall. The permittee shall also send the advisory and any updates required by  
43 subsection (b) to the 2 largest news organizations that report on local news in communities near  
44 the outfall.

45 (e) A permittee of an outfall shall establish a public website to post advisories when  
46 issued and to receive requests from the public to subscribe to permittee's discharge notifications.  
47 The department may require that permittees provide advisories by other means, including, but  
48 not limited to, telephone voice messaging and social media.

49 (f) The department, in consultation with the department of public health, shall establish  
50 standards for municipal boards of health or their health departments to issue public health  
51 warnings when notified by a permittee about a discharge pursuant to subsection (c). When  
52 warnings are necessary, as determined by the department, a municipal health board or its health  
53 department shall utilize the municipality's existing emergency notification system, including, if

54 available, reverse 911 emergency calls. The commissioner may direct a municipal health official  
55 of a board or department to issue a public warning about a discharge in order to protect public  
56 health. Nothing in this subsection shall preempt a municipal board of health or health department  
57 from issuing necessary public warnings concerning an outfall discharge.

58 (g) A permittee shall coordinate with the department to establish the metering, modeling  
59 or other method the permittee shall use to determine or discover when a discharge occurs at its  
60 outfall to comply with the notification requirements of this section. If an outfall will not have  
61 metering equipment to detect and transmit reliable information about a discharge within the  
62 timeframes established by subsections (c) and (d), the permittee shall apply to the commissioner  
63 for authorization to use another method. The commissioner shall approve the proposed method,  
64 provided the permittee can obtain reliable information by such method about any discharge from  
65 its outfall and issue public advisories within said established timeframes.

66 If the proposed method or the current discharge detection capabilities of the permittee's  
67 outfall will not provide timely or reliable information, the commissioner may extend the time for  
68 a permittee to issue a public advisory; provided, that such time shall be extended only as  
69 necessary, and by not more than 24 hours after discovery of the discharge. A permittee that has  
70 been granted an extension shall make necessary improvements to its outfall, if any, to detect an  
71 outfall discharge within the timeframes established pursuant to subsections (c) and (d).

72 Upon application of the permittee, the commissioner may waive any requirement under  
73 this section related to a permittee's outfall; provided, that: (i) the outfall is decommissioned; or  
74 (ii) there has not been significant discharge from the outfall, as determined by the department,  
75 during the preceding 5 years; and (iii) the waiver will not pose a substantial threat to public

76 health or to the environment. A waiver shall be valid for not more than 5 years. Authorizations  
77 and waivers allowed by the commissioner under this subsection shall be in writing and shall  
78 specify the conditions for each waiver.

79 (h) The department may require a permittee to install and maintain conspicuous warning  
80 signage at the location of its outfall and at public access points to waters affected by a potential  
81 discharge from permittee's outfall as determined by the department, including entrances to boat  
82 ramps, piers and designated swimming areas. Signage shall be suitable for its location and be of  
83 the size and form of notice as the department shall prescribe in accordance with this subsection.  
84 Each sign shall: (i) identify the existence of the outfall; (ii) inform about weather events that may  
85 cause a discharge; (iii) warn of the potential threat to public health by recreating in, or using  
86 waters and shores affected by a discharge; (iv) provide information for the public to subscribe to  
87 notifications about outfall discharges in local area waters; and (v) provide other information as  
88 required by the department. Such signage shall conform to all applicable provisions of federal  
89 law and regulations. The department shall coordinate with the department of conservation and  
90 recreation, municipalities and other landowners that have public access points that may be  
91 affected by a discharge, for the placement and maintenance of such signage on public and private  
92 property.

93 (i) The department shall provide information about discharge notifications sent by  
94 permittees to the department under subsection (c) on its website. The website shall: (i) display  
95 information about current outfall discharges in the commonwealth, which shall be posted within  
96 24 hours of the department receiving such data; and (ii) provide access to public advisories and  
97 timely updates regarding discharges.

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

103           (k) The department shall promulgate regulations to carry out this section.

104           SECTION 2. The department of environmental protection shall promulgate regulations to  
105          carry out the purposes of section 1 no later than 1 year after passage of this act.

106           SECTION 3. Section 1 shall take effect 540 days after passage of this act.