

SENATE NO. 521

AN ACT RELATIVE TO FLOOD CONTROL AND REGULATION OF DISCHARGE INTO RIVERS AND STREAMS

*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 91 of the General Laws, as appearing in the 2004 Official Edition, is
2 hereby amended by inserting after section 12A the following section:-
3 12B. (a) No person authorized or licensed to build a structure, drive piles, fill land, operate a
4 water pollution abatement facility or storm water run-off system, or make a dam or other
5 obstruction or encroachment in, over or upon the waters of any river or stream shall, by release
6 of water from a dam, or effluent from a water pollution abatement facility, storm water run-off
7 system or any other facility or system cause the level of water of said river or stream to be
8 raised above its natural levels without first notifying the department of the intention to do so and
9 receiving the department's approval to raise the waters of said river or stream. The department
10 shall promulgate rules and regulations regarding sufficient notice and public hearings to
11 potentially-affected downstream cities, towns and property owners abutting the river or stream.
12 The department shall include in said regulations provisions for notification in the event of a
13 flood or other emergency. Violations of this section shall be punished by a fine of not less than
14 \$1,000 nor more than \$50,000 for each day that the water level exceeds the natural level. The
15 department may, with the participation of affected downstream communities, negotiate a
16 settlement agreement instead of the imposition of the total fine permitted under this section.

17 (b) No person authorized or licensed to build any structure, drive piles, fill land or to make any
18 dam or other obstruction or encroachment in, or to operate and make effluent from a water
19 pollution abatement facility or storm water run-off system over or upon the waters of any river
20 or stream, shall cause the level of water in said river or stream to be raised above its natural
21 levels without first notifying the chief executive officer of every city and town downstream of
22 the point of discharge within Massachusetts or directly adjacent to the Massachusetts border of
23 the intent to do so. For the purposes of this section, the department shall maintain a current
24 emergency contact list to be notified in the event of a release of water or discharge of effluent.
25 Violations of this section shall be punished by a fine of not less than \$1,000 nor more than
26 \$50,000 for each day that the water level exceeds the natural level. The department may, with
27 the participation of affected downstream communities, negotiate a settlement agreement instead
28 of the imposition of the total fine permitted under this section.

29 (c) Notification provided in accordance with the provisions of this section shall not constitute
30 any exemption from liability for damages that may result from the actions of any such person,
31 whether or not approved by the department, in the event that an aggrieved party chooses to file a
32 civil action against such person.