

***SENATE . . . . . No. 01904***

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The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven.  
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SECTION 1. Chapter 21 of the General Laws is hereby amended by striking out section 37B, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 37B. (a) For the purposes of this section, the following terms shall, unless the context clearly requires otherwise, have the following meanings:-

“Aquatic nuisance”, undesirable or excessive substances or populations that interfere with the recreational or ecological potential of a body of water or interfere with the natural resources thereof and shall include, but not be limited to, rooted aquatic vegetation and algae populations, dreissena mussels, spiny water fleas and any other invasive species that the commissioner declares to be an aquatic nuisance.

“Boat transporter”, any vehicle combination including a stinger-steered boat transporter and a low-boy boat transporter, designed and used specifically for the transport of assembled boats and boat hulls; provided, however, that the boats may be partially disassembled to facilitate transportation.

“Inland waters”, all waters within the jurisdiction of the commonwealth other than coastal waters.

“Low-boy boat transporter”, a semi-trailer unit in which the trailer is designed and used specifically for the transport of assembled boats and hulls; provided, however, that the top surface of the deck platform of such semi-trailer shall not be more than 36 inches above the surface on which the wheels of the vehicle rest.

“Truck-trailer boat transporter”, a boat transporter combination consisting of a truck towing a trailer typically using a ball and socket connection and the trailer axle thereon is located substantially at the trailer center of gravity, rather than at the rear of the trailer, so as to maintain a downward force on the trailer tongue.

“Vessel”, shall have the same meaning as defined in section 1 of chapter 90B.

(b) The department shall establish and maintain an aquatic nuisance control program. The aquatic nuisance control program shall: (i) receive and respond to aquatic nuisance complaints; (ii) work with municipalities, local interest organizations and agencies to develop long-range programs regarding aquatic nuisance controls; (iii) work with federal, state and local governments to obtain funding for aquatic nuisance control programs; and (iv) administer the grant program under sections 37C and 37D.

(c) The department shall adopt regulations, in consultation with the department of fish and game, to enable the aquatic nuisance control program to suppress, eradicate, control and otherwise mitigate or reduce the risk of the spread of aquatic nuisances.

(d) The department shall study and promote improved methods of suppressing, controlling or otherwise mitigating or reducing the risk of the spread of aquatic nuisances and shall act in cooperation with federal and state agencies engaged in the study or control of aquatic nuisances.

(e) The department may: enter into contracts for the study, control and eradication of aquatic nuisances on behalf of the commonwealth; act in cooperation with any state agency, person, subdivision of the commonwealth, any other state, the United States or any foreign government; issue orders or establish quarantines to suppress or eradicate aquatic nuisances; and advise, make use of and require the use of all lawful means of suppressing, controlling or otherwise mitigating or reducing the risk of the spread of such aquatic nuisances.

(f) Except as otherwise authorized by the department, no person shall knowingly and intentionally place, or cause to be placed, an aquatic nuisance in or upon inland waters.

(g) Except as otherwise authorized by the department, no person shall place or cause to be placed in or upon inland waters any vessel, boat transporter, truck-trailer boat transporter or any other equipment used in conjunction with such vessel, boat transporter or truck-trailer boat transporter, if the vessel, transporter or truck-trailer boat transporter or other equipment has growing thereon or attached thereto an aquatic nuisance, unless the vessel, boat transporter, truck-trailer transporter or other equipment

used in connection therewith has been cleaned, decontaminated or treated to kill or remove the aquatic nuisance in accordance with the department's regulations.

(h) Whoever: (i) knowingly and willfully violates subsection (g) or knowingly and willfully resists or obstructs the department, including any duly authorized employee or agent thereof, in the department's effort to suppress or eradicate an aquatic nuisance; or (ii) having been provided a written copy of any rule, regulation, order or quarantine issued by the commissioner pursuant to this section, knowingly violates such rule, regulation, order or quarantine shall be subject to either:

(1) a civil assessment of not more than \$5,000 for each violation; provided, however, that each day that such violation occurs or continues shall be deemed a separate violation; provided further, that the penalty may be assessed by the department and may be recovered in an action brought on behalf of the commonwealth by the attorney general in the superior court; or

(2) the fines and sanctions set forth in section 5D of chapter 90B.

(i) In addition to the foregoing, the commonwealth may bring an action for injunctive relief in the superior court relative to any such violation and the superior court shall have jurisdiction to enjoin such violation and to grant such further relief as it deems appropriate.

(j) Nothing in this section shall be construed to or have the effect of limiting the authority of the division of fisheries and wildlife to manage and regulate inland fisheries resources and other wildlife pursuant to chapter 131 or chapter 131A.

SECTION 2. Section 10H of chapter 21A of the General Laws, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

A person notified to appear before the clerk of the district court as provided in section 10G for a violation of section 37B of chapter 21 may so appear within the time specified and pay a fine of \$25. A person notified to appear before the clerk of the district court as provided in section 10G for a second or subsequent violation of section 37B of chapter 21 may so appear within the time specified and pay a fine of \$100.

SECTION 3. Chapter 90B of the General Laws, as so appearing, is hereby amended by inserting after section 5C the following section:-

Section 5D. (a) Whoever violates section 37B of chapter 21 shall be punished by a fine of not less than \$25 nor more than \$100 for the first violation, by a fine of not less than \$100 nor more than \$500 for a second such violation and by a fine of

not less than \$1,000 or imprisonment in the house of correction for not more than 60 days or by both such fine and imprisonment for a third or subsequent such violation.

(b) The director of the office of law enforcement may suspend or revoke and cancel the certificate of number issued to whoever is convicted of violating said section 37B. Such suspension or revocation and cancellation shall be in addition to the criminal penalties contained in subsection (a).

SECTION 4. The commissioner of the department of conservation and recreation shall adopt the regulations required by subsection (c) of section 37B of chapter 21 of the General Laws not later than 90 days after the effective date of this act.

SECTION 5. Subsection (h) of said section 37B of said chapter 21 shall take effect upon the effective date of regulations promulgated by the department of conservation and recreation pursuant to subsection (c) of said section 37B.