SENATE . . . . . No. 2371

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act to protect public water supply lands.

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 39G of chapter 40 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 8 and 9, the words "three hundred dollars or by imprisonment for not more than one year, or both" and inserting in place thereof the following words:- $5,000 or by imprisonment in state prison for not more than 5 years or in the house of correction for not more than 2 years or by both such fine and imprisonment.

SECTION 2. Chapter 92A½ of the General Laws is hereby amended by striking out section 9, as so appearing, and inserting in place thereof the following section:-

Section 9. A person who without lawful authority takes or diverts water from a water supply within the watershed system of the division, corrupts or defiles the water supply or a source of the water supply, injures, destroys or interferes with property held or used by the authority for the purpose of constructing, operating or maintaining the watershed system or who violates or refuses to comply with a rule, regulation or order of the department shall be punished by a criminal fine of not more than $50,000 or by imprisonment in state prison for not more than 5 years or in the house of correction for not more than 2 years or by both such fine and imprisonment. In cases of continuing violation, the maximum fine shall be $10,000 per day for each day the violation occurs or continues; provided, that a person convicted of the wanton or malicious destruction of or injury to property used in the construction, operation or maintenance of the watershed system shall also be liable in tort to the department for triple the amount of damages thereby caused. The fine or tort judgment shall be payable to the treasury of the commonwealth.

SECTION 3. Section 170 of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words " for not more than two years, or" and inserting in place thereof the following words:- in state prison for not more than 5 years or in the house of correction for not more than 2 years or by.

25 SECTION 4. Chapter 266 of the General Laws is hereby amended by inserting after
26 section 123 the following section:-

27 Section 123A. (a) Whoever willfully trespasses upon any public source of water or public
28 water supply facilities or land after having been forbidden to do so by a person who has lawful
29 control of the water, facilities or land, or an agent of such a person, whether directly or by notice
30 posted on such water supply facility or land, shall be punished by a fine of not less than $250 nor
31 more than $1,000.

32 (b) Whoever commits any offense described in subsection (a) with the intent to corrupt,
33 pollute or defile such public source of water, shall be punished by a fine of not less than $1,000
34 nor more than $5,000 or by imprisonment in the house of correction for not more than 2 years or
35 in state prison for not more than 5 years or by both such fine and imprisonment. Whoever is
36 convicted of a second or subsequent violation of this subsection shall be punished by a fine of
37 not less than $1,000 nor more than $10,000 or by imprisonment in state prison for not less than 5
38 years nor more than 10 years or by both such fine and imprisonment.

39 (c) In addition to the punishments outlined in subsections (a) and (b), restitution in the
40 amount of costs associated with water quality analysis and any subsequent investigation to
41 determine water safety and security of the facilities or land may be ordered by a court after a
42 hearing relative to such restitution.

43 (d) A law enforcement officer may arrest, without a warrant, any person that the officer
44 has probable cause to believe has violated this section.