HOUSE DOCKET, NO. FILED ON: 12/30/2008

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

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The Commonwealth of Massachusetts

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PRESENTED BY:

**William G. Greene, Jr.**

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*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 passage of the accompanying bill:

An Act relative to the posting of fish advisories.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PETITION OF:

|  |  |
| --- | --- |
| Name: | District/Address: |
| William G. Greene, Jr. | 22nd Middlesex |

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 760 OF .]

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

An Act relative to the posting of fish advisories..

 *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 3 of chapter 90B of the General Laws, as it appears in the

official 2006 edition, is hereby amended by inserting after the word “number.”

in line 12 the following:—The director shall issue a written advisory as

provided in section 4B of chapter 130 with every issuance of a certificate of

number.

SECTION 2. Chapter 90B is further amended by inserting after section 4B the

following section:—Section 4C. (a) The advisory as provided is section 4B of

chapter 130 shall be posted at any boat launching facility managed by the

division of fisheries and wildlife, the department of conservation and

recreation, or any municipality.

(b) Whoever is in the business of providing recreational fishing tours,

including but not limited to, chartered fishing trips, shall provide to any

customer on board the written advisory as provided in section 4B of chapter 130.

SECTION 3. Chapter 94 of the General Laws is hereby amended by inserting after

section 88D the following new sections:— Section 88E. (a) Wherever raw or cooked

fish is offered for human consumption either at a retail food facility, over a

counter, by a sign, tag, or menu board, a written advisory shall be posted in a

prominent location so that it is likely to be read by the consumer prior to

ordering. The advisory shall contain the following:

FISH ADVISORY

Some fish contain high levels of a form of mercury that can harm the developing

nervous system of the fetus and young child if eaten regularly. Certain fish

contain higher levels than others. Pregnant and nursing women, women who may

become pregnant, and young children should not eat the following fish:

SWORDFISH, SHARK, KING MACKEREL, TILEFISH, TUNA STEAK, AND

MASSACHUSETTS FRESHWATER FISH EXCEPT THOSE STOCKED BY THE

DIVISION OF FISHERIES AND WILDLIFE

Limit all other fish to an average of 12 ounces, approximately 2 meals per week.

Mercury levels in canned tuna vary, but on average are lower than levels in many

other fish. Light tuna has been shown to contain less mercury than chunk white

(albacore) tuna.

Fish and seafood can be an important source of nutrients and part of a balanced

diet. By being informed about the risks of mercury and knowing the kinds of fish

that are safe to eat, you can prevent harm to your child and still enjoy the

health benefits of eating seafood.

This warning is based on U.S. FDA, U.S. EPA and Massachusetts DPH advisories.

(b) Where fish is purchased by a consumer over the counter, the warning signs

shall meet the following specifications:

(i) Be square in shape and no smaller than 10 inches on a side or be rectangular

in shape and no smaller than 11 inches wide by 8.5 inches high.

 (ii) Be printed in a color of ink that is in high contrast to the color of the

background material. (iii) At least 1/3 inch margin shall be maintained around

the notice. (iv) The words, “Fish Advisory” shall be centered at the top of the

advisory, in all bold, upper case letters and shall be no smaller than 35 point

type face.

(v) The first three sentences shall be no smaller than 25 point type face, and

the first two sentences shall be in all bold letters. The specific names of

fish, as contained in the third sentence shall be in all bold, upper case

letters. The remaining sentences shall be no smaller than 20 point type face.

(vi) Include current contact information for the U.S. Food and Drug

Administration and the Massachusetts Department of Public Health, including, but

not limited to, phone numbers and web addresses, for additional information

relative to mercury contamination in fish.

(c) Where fish is ordered directly from a server or at a dining table, warnings

shall be printed on all menus in which fish is listed so that it is likely to be

read by consumers prior to ordering fish. For menus, the warning must contain,

at a minimum, the header and the first two sentences as set forth in subsection

(a) of this section and shall be no smaller than 10 point type face.

(d) The department of public health shall enforce the provisions of this section

and shall from time to time adopt rules and regulations for the enforcement

thereof.

SECTION 4. Chapter 130 of the General Laws is hereby amended by inserting the

following section:— Section 4B. The department of fish and game shall, in

cooperation with the department of public health, develop a written advisory

warning of the dangers posed to pregnant women, nursing women, women who may

become pregnant, and young children, of consuming certain fish due to elevated

levels of mercury. Fish to be listed in said advisory shall include, but not be

limited to, swordfish, shark, king mackerel, tilefish and tuna steak, in

addition to fish caught in Massachusetts freshwater bodies, including but not

limited to, streams, rivers, lakes and ponds, due to elevated levels of mercury

in fish. The advisory shall not apply to fish stocked in fresh water bodies by

the division of fisheries and wildlife.

SECTION 5. Chapter 130 of the General Laws is hereby amended by inserting after

section 75 the following section:—Section 75A. The division and any

municipality, where applicable, shall provide a written advisory as provided for

in section 4B of chapter 130 to every person issued a noncommercial permit for

the taking or harvesting of lobster, crab or any other shellfish.

SECTION 6. Chapter 131 of the General Laws is hereby amended by inserting after

section 12 the following section:—Section 12A. The division shall provide a

written advisory as provided for in section 4B of chapter 130 to every person

issued a fishing license.

SECTION 7. The office of law enforcement within the executive office of

environmental affairs shall enforce the provisions set forth in sections one,

four and five of this act.

SECTION 8. This act shall take effect no later than January 1, 2010.