

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

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**William G. Greene, Jr.**

*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:

William G. Greene, Jr.

DISTRICT/ADDRESS:

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**

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**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:*

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2 SECTION 1. Section 3 of chapter 90B of the General Laws, as it appears in the  
3 official 2006 edition, is hereby amended by inserting after the word “number.”  
4 in line 12 the following:—The director shall issue a written advisory as  
5 provided in section 4B of chapter 130 with every issuance of a certificate of  
6 number.

7

8 SECTION 2. Chapter 90B is further amended by inserting after section 4B the  
9 following section:—Section 4C. (a) The advisory as provided in section 4B of  
10 chapter 130 shall be posted at any boat launching facility managed by the  
11 division of fisheries and wildlife, the department of conservation and  
12 recreation, or any municipality.

13 (b) Whoever is in the business of providing recreational fishing tours,  
14 including but not limited to, chartered fishing trips, shall provide to any  
15 customer on board the written advisory as provided in section 4B of chapter 130.

16

17 SECTION 3. Chapter 94 of the General Laws is hereby amended by inserting after  
18 section 88D the following new sections:— Section 88E. (a) Wherever raw or cooked  
19 fish is offered for human consumption either at a retail food facility, over a  
20 counter, by a sign, tag, or menu board, a written advisory shall be posted in a  
21 prominent location so that it is likely to be read by the consumer prior to  
22 ordering. The advisory shall contain the following:

23 **FISH ADVISORY**

24 Some fish contain high levels of a form of mercury that can harm the developing  
25 nervous system of the fetus and young child if eaten regularly. Certain fish  
26 contain higher levels than others. Pregnant and nursing women, women who may  
27 become pregnant, and young children should not eat the following fish:

28 **SWORDFISH, SHARK, KING MACKEREL, TILEFISH, TUNA STEAK, AND**  
29 **MASSACHUSETTS FRESHWATER FISH EXCEPT THOSE STOCKED BY THE**  
30 **DIVISION OF FISHERIES AND WILDLIFE**

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

32 Mercury levels in canned tuna vary, but on average are lower than levels in many  
33 other fish. Light tuna has been shown to contain less mercury than chunk white  
34 (albacore) tuna.

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

36 diet. By being informed about the risks of mercury and knowing the kinds of fish  
37 that are safe to eat, you can prevent harm to your child and still enjoy the  
38 health benefits of eating seafood.

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

40 (b) Where fish is purchased by a consumer over the counter, the warning signs  
41 shall meet the following specifications:

42 (i) Be square in shape and no smaller than 10 inches on a side or be rectangular  
43 in shape and no smaller than 11 inches wide by 8.5 inches high.

44 (ii) Be printed in a color of ink that is in high contrast to the color of the  
45 background material. (iii) At least 1/3 inch margin shall be maintained around  
46 the notice. (iv) The words, "Fish Advisory" shall be centered at the top of the  
47 advisory, in all bold, upper case letters and shall be no smaller than 35 point  
48 type face.

49 (v) The first three sentences shall be no smaller than 25 point type face, and  
50 the first two sentences shall be in all bold letters. The specific names of  
51 fish, as contained in the third sentence shall be in all bold, upper case  
52 letters. The remaining sentences shall be no smaller than 20 point type face.

53 (vi) Include current contact information for the U.S. Food and Drug  
54 Administration and the Massachusetts Department of Public Health, including, but  
55 not limited to, phone numbers and web addresses, for additional information  
56 relative to mercury contamination in fish.

57 (c) Where fish is ordered directly from a server or at a dining table, warnings  
58 shall be printed on all menus in which fish is listed so that it is likely to be

59 read by consumers prior to ordering fish. For menus, the warning must contain,  
60 at a minimum, the header and the first two sentences as set forth in subsection  
61 (a) of this section and shall be no smaller than 10 point type face.

62 (d) The department of public health shall enforce the provisions of this section  
63 and shall from time to time adopt rules and regulations for the enforcement  
64 thereof.

65  
66 SECTION 4. Chapter 130 of the General Laws is hereby amended by inserting the  
67 following section:— Section 4B. The department of fish and game shall, in  
68 cooperation with the department of public health, develop a written advisory  
69 warning of the dangers posed to pregnant women, nursing women, women who may  
70 become pregnant, and young children, of consuming certain fish due to elevated  
71 levels of mercury. Fish to be listed in said advisory shall include, but not be  
72 limited to, swordfish, shark, king mackerel, tilefish and tuna steak, in  
73 addition to fish caught in Massachusetts freshwater bodies, including but not  
74 limited to, streams, rivers, lakes and ponds, due to elevated levels of mercury  
75 in fish. The advisory shall not apply to fish stocked in fresh water bodies by  
76 the division of fisheries and wildlife.

77  
78 SECTION 5. Chapter 130 of the General Laws is hereby amended by inserting after  
79 section 75 the following section:—Section 75A. The division and any  
80 municipality, where applicable, shall provide a written advisory as provided for  
81 in section 4B of chapter 130 to every person issued a noncommercial permit for

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

83

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

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

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

87 issued a fishing license.

88

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

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

91 four and five of this act.

92

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

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