HOUSE DOCKET, NO. 2144 FILED ON: 1/17/2013

HOUSE . . . . . No. 758

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

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 adoption of the accompanying bill:

An Act to reduce solid waste, increase recycling and generate municipal cost savings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jason M. Lewis	*Fifth Middlesex*
Ruth B. Balser	*12th Middlesex*
Cory Atkins	*14th Middlesex*
Jonathan Hecht	*29th Middlesex*
Michael J. Barrett	*Third Middlesex*
Kay Khan	*11th Middlesex*
Thomas J. Calter	*12th Plymouth*
Denise Provost	*27th Middlesex*
James B. Eldridge	*Middlesex and Worcester*

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By Mr. Lewis of Winchester, a petition (accompanied by bill, House, No. 758) of Jason M. Lewis and others relative to the implementation of strategies for reducing solid waste and increasing recycling in the Commonwealth. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to reduce solid waste, increase recycling and generate municipal cost savings.

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. Chapter 16 of the General Laws is hereby amended by adding after section 21 the following new section:-

Section 21A. (a) In conjunction with the statewide solid waste master plan, the department shall establish annual performance target goals for municipal solid waste reduction, based on total pounds of solid waste disposed per resident served per year. The department, in consultation with the solid waste advisory committee, shall consider the costs and benefits to a municipality in the setting of such goals.

(b) Each municipality shall make a written report to the department, no later than first day of September of each year, of the total weight of solid waste disposed during the prior fiscal year, as well as the approximate number of households and residents served by that municipality's solid waste disposal program. Such report shall be made in a form and with the information, as prescribed by the department.

SECTION 2. All terms are defined as in 310 CMR 19.00 and in the Guidance for Solid Waste Handling and Disposal Facilities on Compliance with MassDEP's Waste Bans.

SECTION 3. All Solid Waste Management Facilities must remove and divert from disposal all Waste Ban materials to the greatest extent possible. Failure to remove Waste Ban materials to the greatest extent possible shall result in enforcement action by MassDEP or an officer of the municipality in which the Solid Waste Management Facility in located (the "Host Municipality").

SECTION 4. The MassDEP and the Host Municipality shall use the following Action Level Thresholds in deciding to undertake enforcement:

A. All Waste Ban Materials banned by 310 CMR 19.017 prior to January 1, 2013 are unacceptable in any quantity.

B. The Action Levels for all Waste Ban Materials banned by 310 CMR 19.017 after January 1, 2013 shall be 10%.

C. Once a Waste Ban Material has been banned by 310 CMR 19.017 for twenty-four months it shall be unacceptable in any quantity.

SECTION 5. MassDEP and the Host Municipality will conduct frequent load inspections to determine whether loads contain Waste Ban Materials. If a load contains Waste Ban Materials in excess of the allowable amounts, the hauler shall be fined $100. If the hauler has more than five fines in a calendar year, the hauler shall not be permitted to bring waste to that Solid Waste Management Facility for one calendar year.

SECTION 6. All fines shall be paid to the MassDEP if levied by a MassDEP officer, or to the Host Municipality if levied by an officer of the Host Municipality. The MassDEP and the Host Municipality shall use the fines to fund municipal and other recycling programs, composting programs, composting and recycling education programs and any and all other programs promoting zero waste principles at the state or municipal level, respectively. The MassDEP shall refer to the state's fund as the "Zero Waste Fund," and the MassDEP shall have the sole discretion as to how the Zero Waste Fund is spent.

SECTION 7. The MassDEP shall collect a $1.50/ton surcharge on all waste disposed of at a Solid Waste Disposal Facility from the Solid Waste Disposal Facility operators. All surcharge monies shall also become part of the Zero Waste Fund and used to fund municipal and other recycling programs, composting programs, composting and recycling education programs and any and all other programs promoting zero waste principles.

SECTION 8. All entities that provide solid waste collection services in the Commonwealth ("haulers") shall be subject to regulation by the department. In order to operate in the Commonwealth, haulers shall register with the department, subject to an administrative fee as set by the department. All registered haulers shall document to the department the methods of their provision of comprehensive and convenient collection services to all their customers to recover and avoid disposal of the following materials at a minimum: recyclable paper; metal , glass and rigid plastic containers; and any other materials specified by the department which are banned from disposal pursuant to 310 CMR 19.017, and which are regularly generated by their service recipients.

54 SECTION 9. Collection of waste and recovered materials shall be provided to customers
55 by haulers at a single rate, and in such a way as to encourage recovery and discourage the
56 disposal of recoverable commodities, with conditions for exemptions to be determined by the
57 department. Receptacles of the appropriate sizes for the various waste streams shall be provided,
58 located in proximity to each other, and collected regularly. Except under extreme circumstances
59 as determined by the department, recyclables shall not be brought to a disposal facility either in
60 or outside the Commonwealth, but shall be delivered to a facility that will put the materials to
61 their highest beneficial use. Documentation of this shall be provided to the department.

62 SECTION 10. Haulers shall annually provide each customer with instructions on the
63 proper use of their comprehensive waste management service.

64 SECTION 11. The department shall have the authority and responsibility to enforce the
65 provisions of 310 CMR 19.017 (the "waste bans") on generators and haulers as well as disposal
66 facilities, and to make public all enforcement actions resulting in penalties.

67 SECTION 12. The measurement of solid waste as stipulated by the department of
68 environmental protection shall be reported to said department by the waste and recycling
69 processing facilities of the Commonwealth, and by all haulers who transport material for disposal
70 and recycling outside the Commonwealth by February 1 of each year, covering the period from
71 January 1 to December 31 of the preceding year. The department will issue a report each year
72 available to the public which compiles solid waste management results in the aggregate by
73 material from all waste haulers in the Commonwealth.

74 The department shall promulgate rules and regulations stipulating the enforcement and
75 appeals processes with regard to penalties for failure to comply with this Act. Any surcharge
76 levied by the department of environmental protection may be appealed to said department
77 pursuant to the rules and regulations provided for in this section. The determination of said
78 department with regard to an appeal may be appealed to superior court.

79 SECTION 13. Revenue from registration fees and enforcement penalties provided for in
80 this Act shall be credited to the Zero Waste Fund.

81 SECTION 14. Monies from the Zero Waste Fund may be used to provide low interest
82 loans to haulers for equipment with which to implement the provisions of the regulations
83 promulgated as a result of this Act. The commissioner shall cause to be filed with the chairs of
84 the House and Senate committees on ways and means an annual report regarding the revenues,
85 expenditures and loans provided from said expendable trust.

86 SECTION 15. The department of environmental protection shall make training available
87 to all haulers with regard to the regulations pursuant to the collection and reporting of solid waste
88 disposal and recovery information. In the event of intentional false or negligent reporting of
89 solid waste information to said department by any hauler, the commissioner of the department of

90 environmental protection shall be authorized to fine said hauler no more than $2,000 for each
91 instance of false reporting .

92 SECTION 16. The department of environmental protection may promulgate rules and
93 regulations to ensure the implementation of this Act, including, without limitation, rules and
94 regulations that govern enforcement, grant programs funded by registration and penalty-related
95 revenue, and the means of measuring solid waste and recovered material volumes.