

HOUSE No. 1413

The Commonwealth of Massachusetts

PRESENTED BY:

Martha M. Walz

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 relative to non-discrimination training in the workplace.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Martha M. Walz</i>	<i>8th Suffolk</i>	<i>1/19/2011</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>2/1/2011</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>	<i>2/4/2011</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>2/3/2011</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/28/2011</i>

HOUSE No. 1413

By Ms. Walz of Boston, a petition (accompanied by bill, House, No. 1413) of Martha M. Walz and others relative to non discrimination training in the workplace. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1845 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to non-discrimination training in the workplace.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to reduce discrimination, harassment and retaliation in the workplace, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 3A of Chapter 151B of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by striking out subsection (e), and replacing it with the
3 following subsection:-

4 (e) Employers and labor organizations are encouraged to conduct an education and
5 training program for new non-supervisory employees and members, within one year of
6 commencement of employment or membership, which includes at a minimum the information
7 set forth in this section.

8 SECTION 2. Said chapter 151B, is hereby further amended by inserting after section 3A
9 the following section:-

10 Section 3B. Training and education for supervisory and managerial employees

11 By January 1, 2010, employers are encouraged to provide at least two hours of classroom
12 or other effective interactive training and education regarding illegal workplace discrimination,
13 harassment and retaliation to all supervisory and managerial employees who are employed as of
14 July 1, 2008, and to all new supervisory and managerial employees within six months of their
15 assumption of a supervisory or managerial position. After January 1, 2010, employers are
16 encouraged to provide such training and education to each supervisory or managerial employee
17 once every two years.

18 (a) The training and education described in this section should include at a
19 minimum (i) information and practical guidance regarding the federal and state statutory
20 provisions concerning the prohibition against and the prevention and correction of workplace
21 discrimination, harassment and retaliation, (ii) information about the remedies available to
22 victims of workplace discrimination, harassment and retaliation, and (iii) practical examples
23 aimed at instructing supervisors and managerial employees in the prevention of discrimination,
24 harassment and retaliation. The training and education shall be presented by trainers or
25 educators with knowledge and expertise in the prevention of discrimination, harassment and
26 retaliation.

27 (b) A claim that the training and education described by this section did not reach a
28 particular individual or individuals shall not in and of itself result in the liability of any employer
29 to any present or former employee or applicant in an action alleging illegal workplace

30 discrimination, harassment or retaliation. Conversely, an employer's compliance with this
31 section does not insulate the employer from liability for discrimination, harassment or retaliation
32 against any current or former employee or applicant.

33 (c) An employer's compliance with this section with respect to a particular
34 supervisor or managerial employee shall be an affirmative defense to any action alleging illegal
35 discrimination, harassment or retaliation brought against an employer based on that supervisor's
36 or managerial employee's actions or failure to act. Any employer that has provided the training
37 and education described by this section to a supervisory or managerial employee after January 1,
38 2007 is not required to provide additional training and education by the January 1, 2009 deadline
39 in order to assert this affirmative defense.

40 (d) The training and education described in this section is intended to establish a
41 minimum threshold and should not discourage any employer from providing for longer, more
42 frequent, or more elaborate training and education regarding unlawful workplace discrimination,
43 harassment and retaliation in order to meet its obligations to take all reasonable steps necessary
44 to prevent and correct discrimination, harassment and retaliation.