

SENATE No. 1134

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

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 Cimex Lectularius.

PETITION OF:

NAME:

Richard T. Moore

DISTRICT/ADDRESS:

SENATE No. 1134

By Mr. Moore, petition (accompanied by bill, Senate, No. 1134) of Moore for legislation relative to Cimex Lectularius [Joint Committee on Public Health].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to Cimex Lectularius.

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. Definitions

2 A. For purposes of this section:

3 “Bed bug” means an insect of the species “Cimex Lectularius,” commonly
4 referred to as a bed bug;

5 “Control” means the process required by a professional pesticide applicator to attempt to
6 eliminate or manage an infestation of bed bugs by poisoning, spraying, fumigating, trapping or
7 by any other recognized and lawful pest-elimination method, including repeated applications of
8 any treatment, particularly to areas where bed bugs are likely to congregate. Control of bed bugs
9 shall be deemed completed if there has been no evidence of bed bug activity for thirty (30) days
10 after the last application of any treatment;

“Infestation” means the presence of bed bugs, or signs of their presence, in a quantity large enough that the tenant of a dwelling unit has knowledge or should have had knowledge of the presence of bed bugs in the dwelling unit;

“Surrounding Unit” means a unit or units that share a common wall or are located above or below;

“Owner” and “Tenant” shall have the same meaning as defined in 105 CMR 410;

“Certified Applicator” shall have the meaning provided in G.L. 132B;

This Act shall not apply to dwellings containing one dwelling unit.

SECTION 2.

At such time as a landlord shall have actual or constructive knowledge of the infestation of bed bugs in a dwelling unit, the landlord shall be required to maintain the dwelling unit free of an infestation of bed bugs.

Any tenant that asserts that an infestation of bed bugs is present in the tenant’s dwelling unit shall immediately provide notice to the landlord in writing.

Within five (5) business days of receiving a notice from any tenant of an infestation of bed bugs, the landlord shall perform a visual inspection of the dwelling unit. In the event the landlord observes the presence of any bed bugs or other evidence of the existence of bed bugs in the dwelling unit, the landlord shall commence the Extermination Protocol. In the event the landlord is issued a citation by any state, city, or town inspector indicating the existence of bed bugs, the landlord shall commence the Extermination Protocol.

31 A landlord shall be deemed to have constructive knowledge of an infestation
32 of bed bugs in the event the landlord is aware of an infestation of bed bugs in any Surrounding
33 Unit.

34 SECTION 3.

35 Within ten (10) business days, the landlord shall retain the services of a
36 Certified Applicator to inspect the dwelling unit to confirm the presence of an infestation of bed
37 bugs. In the event the Certified Applicator fails to observe an infestation of bed bugs, the
38 landlord shall have no further obligation to perform further inspections for bed bugs in the
39 dwelling unit unless the tenant provides the landlord with a written report from a Certified
40 Applicator identifying the existing of an infestation of bed bugs in the dwelling unit.

41 In the event a Certified Applicator identifies an infestation of bed bugs in a
42 dwelling unit, the landlord shall perform such treatments and extermination services as may be
43 required by the Certified Applicator. The landlord shall then perform such further treatments
44 and exterminator services as may be required by the Certified Applicator until such time as the
45 control of the bed bugs shall be deemed to be completed.

46 The Landlord shall perform a visual inspection for an infestation of bed bugs
47 no later than thirty (30) days after the Certified Applicator indicates that the control of the bed
48 bugs has been completed. In the event that the landlord fails to observe the presence of bed bugs
49 at such inspection, the extermination of bed bugs shall be complete.

50 SECTION 4.

51 Any tenant that occupies a dwelling unit that is infested with bed bugs, shall:

(1) Notify the landlord in writing immediately after being aware of the presence of bedbugs;

(2) Allow the landlord, as well as its agents, inspectors, Certified Applicators, and contractors, to enter the dwelling unit to perform inspections, repairs, exterminations, and applications, upon not less than twenty-four (24) hours notice;

(3) Within a reasonable period of time after receipt of notice from the Certified Applicator, comply with any and all protocols and instructions afforded to tenant by the Certified Applicator, including without limitation, encasing and sealing personal property in plastic bags, laundering personal property, removing personal property which may be to be infested with bed bugs; and removing unreasonable amounts of personal property which are deemed to be interfering with the proper treatment of the bed bugs by the Certified Applicator. No tenant shall interfere with the Certified Applicator's performance of any extermination or inspection.

Any tenant that fails to provide access to the dwelling unit, interferes with any inspection or extermination, or fails to comply with the protocols and/or instructions of the Certified Applicator, shall be responsible for any actual and consequential damages incurred by the landlord as a result of such denials. In addition, a landlord shall be entitled to the issuance of injunctive relief against any such tenant, including an order prohibiting a tenant from occupying a dwelling unit during the period that the Certified Applicator is performing any required exterminations.

SECTION 5.

Notwithstanding any statute to the contrary, no landlord shall be liable for any actual or consequential damages caused by an infestation of bed bugs unless the landlord fails to comply with the requirements of this Act.

Any tenant that fails to comply with the requirements of this Act, shall be responsible for the actual and consequential damages incurred by the landlord as a result of such non-compliance. The failure to provide access as required, interfering with any inspection or extermination, and/or failure to comply with the protocols and/or instructions of a Certified Applicator, shall also be constitute sufficient grounds upon which to terminate a tenancy.

Nothing herein shall prevent the landlord and tenant from entering into an agreement assigning other duties and obligations in relation to the costs and duties pertaining to bed bug controls.

SECTION 6.

The Department of Public Health shall prepare a pamphlet that describes bed bugs and explains how bed bug infestations spread.

This pamphlet may contain additional information the Department deems necessary and may be revised by the Department at such time as new information concerning bed bugs becomes available.

The pamphlet shall contain the following information:

(1) Specific facts about bedbugs, including its appearance, breeding and feeding habit;

(2) Tenant behaviors that are risk factors for attracting and supporting the presence of bedbugs such as, but not limited to, purchasing renovated mattresses, used furniture or pre-owned clothing, and travel to tropical climates without proper precautions;

(3) Measures that may be taken to prevent and control bedbugs in a residential setting including professional pest control exterminating, cleaning the dwelling space and mattresses, and laundering bedclothes and clothing;

(4) The pamphlet shall contain, in conspicuous form, the following statement: “Pest extermination for bed bugs may only be performed by a person that is certified by the Commonwealth as being authorized to apply pesticides.”

(5) The pamphlet shall contain, in a conspicuous form, the following statement: “It is your landlord’s duty to keep the premise free of the presence of bed bugs at such time as the landlord becomes aware of their presence.”

(6) The pamphlet shall contain, in a conspicuous form, the following statement: “You may be responsible for the cost of control of bed bugs if you cause an infestation or interfere with extermination process.”

(7) The pamphlet shall contain, in a conspicuous form, the following statement: “If you notice or suspect the presence of bedbugs in your unit, you must promptly notify the owner or manager of your unit in writing.”

(8) The pamphlet shall contain, in a conspicuous form, the following statement: “Upon reasonable notice, you must grant the landlord of your apartment, their agent or the landlord’s pest control company and its employees, access to the apartment for purposes of

114 an inspection for or the control of the infestation of bed bugs. This inspection may include a
115 visual inspection and manual inspection of your personal belongings, limited to bedding and
116 furniture. If bed bugs are found in the unit, additional access and measures may be required. If
117 you do not grant your landlord access for purposes of an inspection or the control of the presence
118 of bed bugs or if you obstruct access for purposes of visual inspection, your landlord shall not be
119 responsible for any costs and damages relating to and arising from bed bugs in your unit and you
120 may be imposed certain costs and expenses relating to your failures.”

121 (9)The pamphlet shall contain, in a conspicuous form, a statement describing
122 the legal rights and obligations imposed on tenants and landlords per this Act.

123 The Department shall make the pamphlet available at no cost to landlords,
124 tenants, and members of the general public, in a form suitable for distribution to landlords for
125 their use in tenant bed bug education.

126 (1) The department shall make the pamphlet available in both English and
127 Spanish languages.

128 (2) The department shall post the pamphlet on the department’s Internet
129 website, in an easily printable format.

130 The pamphlet shall serve as an informational document only, and nothing therein shall be
131 construed as binding on or affecting a judicial determination related to this Act. The pamphlet
132 shall not be deemed to be medical advice.