SENATE DOCKET, NO. 1347 FILED ON: 1/18/2013

SENATE . . . . . No. 1062

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:	DISTRICT/ADDRESS:
Richard T. Moore	*Worcester and Norfolk*

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SENATE . . . . . No. 1062

By Mr. Richard T. Moore, a petition (accompanied by bill, Senate, No. 1062) of Richard T. Moore for legislation relative to bed bugs. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1134* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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:

SECTION 1. (a) For purposes of this section the following words shall have the following meanings, unless the context clearly requires otherwise:

"Bed bug" means an insect of the species "Cimex Lectularius," commonly

referred to as a bed bug;

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

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

17 “Certified Applicator” shall have the meaning provided in chapter 132B;

18 (b) This act shall not apply to dwellings containing one dwelling unit.

19 SECTION 2. Notwithstanding any special or general law to the contrary, at such time as
20 a landlord shall have actual or constructive knowledge of the infestation of bed bugs in a
21 dwelling unit, the landlord shall be required to maintain the dwelling unit free of an infestation of
22 bed bugs.

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

25 Within 5 business days of receiving a notice from any tenant of an infestation of bed
26 bugs, the landlord shall perform a visual inspection of the dwelling unit. In the event the
27 landlord observes the presence of any bed bugs or other evidence of the existence of bed bugs in
28 the dwelling unit, the landlord shall commence the extermination protocol. In the event the
29 landlord is issued a citation by any state, city, or town inspector indicating the existence of bed
30 bugs, the landlord shall commence the extermination protocol.

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

33 SECTION 3. Notwithstanding any general or special law to the contrary, within 10
34 business days, the landlord shall retain the services of a certified applicator to inspect the
35 dwelling unit to confirm the presence of an infestation of bed bugs. In the event the certified
36 applicator fails to observe an infestation of bed bugs, the landlord shall have no further
37 obligation to perform further inspections for bed bugs in the dwelling unit unless the tenant
38 provides the landlord with a written report from a certified applicator identifying the existing of
39 an infestation of bed bugs in the dwelling unit.

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

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

SECTION 4. Notwithstanding any general or special law to the contrary, 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 inspectors, repairs, exterminations, and applications, upon not less than 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 general or special law 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, or failure to comply with the protocols 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. Notwithstanding any special or general law to the contrary, the department of public health shall prepare a pamphlet that describes bed bugs and explains how bed bug infestations spread.

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

87 The pamphlet shall contain the following information:

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

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

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

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

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

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

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

107 (8) The pamphlet shall contain, in a conspicuous form, the following statement: "Upon
108 reasonable notice, you must grant the landlord of your apartment, their agent or the landlord's
109 pest control company and its employees, access to the apartment for purposes of an inspection
110 for or the control of the infestation of bed bugs. This inspection may include a visual inspection
111 and manual inspection of your personal belongings, limited to bedding and furniture. If bed bugs
112 are found in the unit, additional access and measures may be required. If you do not grant your
113 landlord access for purposes of an inspection or the control of the presence of bed bugs or if you
114 obstruct access for purposes of visual inspection, your landlord shall not be responsible for any
115 costs and damages relating to and arising from bed bugs in your unit and you may be imposed
116 certain costs and expenses relating to your failures."

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

119 The department shall make the pamphlet available at no cost to landlords, tenants, and
120 members of the general public, in a form suitable for distribution to landlords for their use in
121 tenant bed bug education.

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

124 (2) The department shall post the pamphlet on the department's internet website, in an
125 easily printable format.

126 The pamphlet shall serve as an informational document only, and nothing therein shall be
127 construed as binding on or affecting a judicial determination related to this act. The pamphlet
128 shall not be deemed to be medical advice.