SENATE DOCKET, NO. 1070 FILED ON: 1/17/2013

SENATE . . . . . No. 1149

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 window guards in residential rental properties.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Mark C. Montigny	*Second Bristol and Plymouth*

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SENATE . . . . . No. 1149

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1149) of Mark C. Montigny for legislation relative to window guards in residential rental properties. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to window guards in residential rental properties.

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 143 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following section after section 3R:

SECTION 3R 1/2: WINDOW GUARDS IN RESIDENTIAL RENTAL PROPERTIES

(a) Definitions. As used in this section:

(1) The term “child” means any individual ten years of age or under.

(2) The term “Department” means the Department of Public Safety.

(3) The term “landlord” means the owner of a multiple dwelling.

(4) The term “lease” means the lease agreement, rental agreement, or any other document legally formalizing the rental arrangement between the landlord and tenant.

(5) The term “multiple dwelling” has the meaning assigned to it in Chapter 151B Section 1.11.

(6) The term “tenant” means the lessee or other occupant residing within a dwelling unit of a multiple dwelling, regardless of whether the occupant is a party to the lease.

(7) The term “window guard” means a bar, screen, or grille assembly installed in a window for the purpose of preventing a child from accidental falling out of the window, in accordance with the regulations promulgated by the Department.

(8) The term “applicable window” means any window greater than six feet above grade that is also capable of opening sufficiently to allow a five inch diameter ball to pass through and is not connected to a fire escape.

(b) Installation.

(1) The landlord or his agent, at the request of a tenant with a child, shall install and maintain window guards on all applicable windows in the tenant’s unit. The landlord or his agent, at the further request of a tenant with a child, shall install and maintain window guards on all applicable windows in the common area of the multiple dwelling accessible by the tenant without having to leave and reenter the building.

(2) Each window guard installed pursuant to subsection 1 shall be designed, constructed, and installed so that it may not deliberately or through accident, ignorance, or inadvertence, be removed, opened, or dislodged without the use of a key or tool. The key or tool shall remain in the possession of the landlord or his agent. Each window guard installed on a window connected to a fire escape shall be releasable or removable from the inside without use of a key, tool, or excessive force.

(3) The Department shall promulgate rules and regulations regarding the design, installation, yearly inspection, and maintenance of window guards.

(c) Notice.

(1) At the beginning of the tenancy, and at least annually thereafter, the landlord or his agent shall provide the tenant with a notice, in accordance with subsection 2, of the tenant’s right to have window guards installed.

(2) The notice shall be in paper format and contain the following text prominently displayed in the lease in no less than 10 point type: “Parents with children under the age of 10 have the right, at no additional charge, to have window guards installed within the rented apartment and the common areas of the building, to prevent children from accidentally falling out of the window.” The landlord or his agent shall also give similar oral notice to the tenant at the beginning of the tenancy.

(3) The Department shall promulgate rules and regulations to establish a yearly training program for landlords and tenants. The Department shall also promulgate rules and regulations to establish the necessary training that the landlord or his agent shall provide to a tenant upon installation of a window guard within the tenant’s unit and upon a tenant beginning a lease in a multiple dwelling with window guards preinstalled.

(d) Prohibitions.

(1) The owner, lessee, sublessee, assignee or managing agent of multiple dwelling, or other person having the right of ownership or possession or right to rent, lease, or sell, or negotiate for the sale or lease of such land or accommodations, or any agent or employee of such a person, shall not:

(i) Charge a tenant requesting window guards any additional rent or fees that a tenant not requesting window guards would be charged.

(ii) Communicate or indicate to the tenant in any way that the installation of window guards is dependent upon additional payment by the tenant.

(iii) Impose any type of pre-condition or psychological deterrent, preliminary to installation of window guards.

(iv) Discriminate against a tenant exercising the right to have window guards installed in any way, including the terms, conditions or privileges of such accommodations or land or the acquisition thereof or renewal of the lease, or in the furnishing of facilities and services in connection therewith.

(2) No occupant of a multiple dwelling, or any other person, shall obstruct or interfere with the installation of window guards, nor shall any person remove or otherwise render ineffective window guards, provided, however, that the landlord or his agent may remove window guards from an unoccupied unit or with the written consent of the tenant.

(3) The Department shall, within a reasonable period of time, investigate complaints filed with regard to a violation under this section, and may impose up to a $5,000 civil penalty for a violation not remedied within ten business days.