

HOUSE No. 3736

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen L. DiNatale

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 providing for inspections of exercise equipment in health clubs.

PETITION OF:

NAME:

Stephen L. DiNatale

DISTRICT/ADDRESS:

3rd Worcester

HOUSE No. 3736

By Mr. DiNatale of Fitchburg, a petition (subject to Joint Rule 12) of Stephen L. DiNatale relative to the inspections of exercise equipment in health clubs. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act providing for inspections of exercise equipment in health clubs.

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

1 The General Laws are hereby amended by inserting after chapter 143 the following
2 chapter:-

3 CHAPTER 143B.

4 INSPECTION OF HEALTH CLUBS

5 Section 1. In this chapter the following terms, unless the context clearly requires
6 otherwise, shall have the following meanings:-

7 “Board”, board of exercise equipment appeals.

8 “Commissioner”, the commissioner of public safety.

9 “Department”, department of public safety.

10 “Exercise equipment”, any device used in a health club in conjunction with physical
11 exercise or the development of muscles, including weights, dumbbells, straps, adaptive hand
12 mitts, prone scooter boards, parallel bars, treadmills and manually propelled exercise bicycles.

13 “Health club”, each facility, in which any person, firm, corporation, partnership,
14 unincorporated association, franchise or other business enterprise offers its exercise equipment
15 for instruction, training or assistance in the preservation, maintenance, encouragement or
16 development of physical fitness, conditioning or well being that includes exercise equipment.

17 Section 2. The commissioner shall cause a system of inspection of exercise equipment to
18 be instituted and maintained in the commonwealth. The commissioner shall assign an adequate
19 number of competent exercise equipment inspectors taking into account the number of health
20 clubs in the commonwealth. The commissioner shall have supervision of the inspection of all
21 exercise equipment in the commonwealth.

22 Section 3. The owner or person in control of a health club shall pay fees to be determined
23 annually by the secretary of administration and finance pursuant to section 3B of chapter 7 for
24 inspection and safety tests conducted pursuant to this chapter. Such fees shall be set at a rate
25 sufficient to meet the department’s cost for conducting said inspections and safety tests.

26 Section 4. Each health club operated in the commonwealth shall be inspected at least
27 once every 6 months by an inspector appointed by the commissioner pursuant to this chapter.
28 During each inspection, the inspector shall inspect and test all exercise equipment operated in the
29 health club. Within 10 days of an inspection, the inspector shall file a report of safety with the
30 commissioner and shall forward a copy of such report to the owner or person in control of the
31 health club. In the report, the inspector shall list and appropriately identify any exercise

32 equipment he or she determines to be defective or unsafe for use in conjunction with physical
33 exercise or the development of muscles. The report shall also include an explanation as to why
34 any such equipment was determined to be defective or unsafe.

35 Upon receipt of the report of safety, the owner or person in control of a health club shall
36 remove any exercise equipment determined to be defective or unsafe or otherwise prohibit the
37 use of any such exercise equipment by any customers. The owner or operator of an elevator who
38 fails to comply with this paragraph shall be punished by a fine of \$100 for each day that any such
39 exercise equipment is not removed or otherwise prohibited; provided, however, that the
40 maximum fine shall be \$5,000. The commissioner or the commissioner's designee may waive all
41 or a portion of the \$100 per day fine and may promulgate rules and regulations establishing
42 criteria used to determine whether the fine may be waived.

43 Section 5. There shall be in the department, but not under the control of the
44 commissioner, a board to be known as the board of exercise equipment appeals, which shall
45 consist of the commissioner or a member of the department designated by the commissioner and
46 4 members to be appointed by the governor, for terms of 6 years each, 1 of whom shall be an
47 engineer, 1 of whom shall be a representative of a liability insurance company and 1 of whom
48 shall be representative of an exercise equipment manufacturer. Upon the expiration of the term
49 of a member appointed by the governor, his or her successor shall be appointed in the same
50 manner for a term of 6 years. Any vacancy shall be filled in the manner aforesaid for the
51 remainder of the unexpired term. The chairman of the board shall be designated from time to
52 time by the governor.

53 Each appointive member of the board shall be paid not less than \$50 for each day while
54 in actual performance of his or her duties as such, but not exceeding \$2,000 in a fiscal year, and
55 shall also receive from the commonwealth all expenses necessarily incurred by the member in
56 connection with his or her official duties.

57 Such clerical, technical and other assistants as may be required by the board shall be
58 assigned to it by the commissioner.

59 Whoever is aggrieved by a determination pursuant to this chapter by an inspector that
60 certain exercise equipment is defective or unsafe may within 30 days after the person receives
61 notice thereof appeal such determination to the board of exercise equipment appeals. The filing
62 fee for an appeal shall be \$50. After giving notice to the appellant, a public hearing shall be had
63 before the board at an early and convenient time and place fixed by it, not later than 30 days after
64 the entry of such appeal, unless such time is extended by agreement with the appellant. Any such
65 party may appear in person or by agent or attorney at such hearing. The board shall within 30
66 days after such hearing, unless such time is extended by agreement with the appellant, issue an
67 appropriate decision or order reversing, affirming or modifying in whole or in part the
68 determination of the inspector. A copy of such order or decision of the board shall be sent
69 forthwith by registered mail to all interested parties.

70 The board may make such rules or by-laws, not inconsistent with law, as it may deem
71 necessary in the performance of its duties.

72 Section 6. The commissioner shall promulgate rules and regulations necessary for the
73 implementation of this chapter.