

HOUSE No. 448

The Commonwealth of Massachusetts

PRESENTED BY:

Paul McMurtry

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 to reduce solid waste and provide universal recycling access.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>1/19/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	
<i>Chris Walsh</i>	<i>6th Middlesex</i>	

HOUSE No. 448

By Mr. McMurtry of Dedham, a petition (accompanied by bill, House, No. 448) of Paul McMurtry and others relative to a universal system of solid waste management. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3420 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to reduce solid waste and provide universal recycling access.

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. The general court makes the following findings and declarations:
- 2 (1) it is in the public interest to:
- 3 (a) conserve energy and resources,
- 4 (b) reduce greenhouse gas emissions from the manufacture, transport and disposal of
- 5 consumer products, and
- 6 (c) enable discarded products and materials to be repurposed for their highest beneficial
- 7 use; and

8 (2) it shall be the purpose of this act to provide for, and require the use of, a consistent
9 system of solid waste management across public and private sectors that reduces the total amount
10 of solid waste disposed of and maximizes the recovery of waste banned materials for highest best
11 use in the recognized order of priority: reuse, recycling, then energy recovery, before landfilling.

12 SECTION 2. Every residence, business and institution, hereinafter referred to as
13 “generator”, shall separate recyclable materials, including but not limited to materials banned
14 from disposal as set forth in 310 CMR 19.017, from solid waste.

15 SECTION 3. All entities that provide solid waste collection and transportation services in
16 the commonwealth, hereinafter referred to as “haulers”, shall provide access to comprehensive
17 waste management service, directly or through referral, which is both convenient and not
18 significantly cost prohibitive.

19 SECTION 4. On and after August 1, 2018 all generators that create solid waste shall
20 subscribe to or participate in recycling services, consistent with this act, and local laws and
21 ordinances applicable to the proper transport, handling and diversion of waste banned materials.

22 SECTION 5. (a) All haulers shall comply with the reporting requirements as set forth by
23 the department of environmental protection as required by this act, hereinafter referred to as
24 “department”.

25 (b) The department may promulgate rules and regulations establishing reporting
26 requirements, procedures for requesting further information from haulers including but not
27 limited to reasonable data on aggregate volumes collected along a specified route, penalties for
28 failure to comply with reporting requirements including but not limited to temporary suspension
29 of hauler permits or fines, and procedures for informing and coordinating with the designated

30 local authority to ensure that said penalties are enforced. Such rules and regulations shall not
31 make haulers responsible for enforcement of the provisions set forth in 310 CMR 19.017 on
32 generators.

33 (c) On and after January 1, 2019, the designated local authority shall provide all haulers
34 with an annual notice for distribution to all generators serviced. The annual notice shall detail
35 the requirements set forth in this act, a list of waste banned materials, a list of diversion options
36 for waste banned materials, including but not limited to licensed and permitted haulers that
37 service within the given municipality, and a schedule of applicable fees in the case of penalties
38 for noncompliance to the requirements set forth in this act.

39 (d) If a municipality lacks a designated local authority, or lacks the wherewithal to fulfill
40 the requirements set forth in this section, the municipality may request that the department act as
41 its designee in fulfilling the requirements set forth in this section.

42 (e) The department, or its designee, shall annually produce the standardized annual notice
43 to reflect the requirements set forth in this act, as well as requirements set forth in state laws and
44 regulations applicable to waste banned materials.

45 (f) The designated local authority may amend the annual notice to remain consistent with
46 local laws and ordinances, and to customize the list of local diversion options for waste banned
47 materials.

48 (g) The department shall have the authority and responsibility to directly enforce the
49 provisions of 310 CMR 19.017 on generators, as well as haulers and disposal facilities, and to
50 make public all enforcement actions resulting in penalties.

51 (h) All generators and haulers that fail to comply with the requirements set forth in this
52 act and the rules and regulations promulgated by the department shall be subject to enforcement
53 by the department.

54 (i) On or before August 1, 2016, the department shall promulgate rules and regulations
55 stipulating the enforcement and appeals process with regard to penalties for failure to comply
56 with this Act. Any surcharge levied by the department may be appealed to the department
57 pursuant to the rules and regulations provided for in this section. The determination of the
58 department with regard to an appeal may be appealed to superior court.

59 (j) In the event of ongoing noncompliance by a generator, the commissioner of the
60 department shall be authorized to fine said generator no more than \$2,000 for each instance of
61 noncompliance.

62 (k) In the event of ongoing noncompliance by a hauler, the commissioner of the
63 department shall be authorized to fine said hauler no more than \$500 for each instance of
64 noncompliance.

65 SECTION 6. (a) Revenue from enforcement penalties provided for in this act shall be
66 credited to and deposited in an expendable trust to be called the Sustainable Materials
67 Management Expendable Trust, the proceeds of which shall be invested by the treasurer and
68 which shall be under the care and custody of the commissioner of the department. Interest
69 earnings on funds deposited in said trust shall be credited to and become part of said trust. The
70 proceeds of said trust shall be expended by said commissioner of the department without further
71 appropriation to cover administrative costs for the implementation and enforcement of this act,
72 including but not limited to supporting additional staff and enforcement officers, to develop the

73 annual notice, and to provide further education to generators of the rules and regulations related
74 to this act.

75 (b) The commissioner shall cause to be filed with the chairs of the house and senate
76 committees on ways and means an annual report regarding the revenues, expenditures and loans
77 provided from said expendable trust.

78 SECTION 7. The department may promulgate rules and regulations to ensure the
79 implementation of this act, including, without limitation, rules and regulations that govern
80 enforcement and appeals process with regard to failure to comply with this act, grant programs
81 funded by penalty-related revenue, and the means of measuring aggregate solid waste and
82 recovered material volumes.