

**SENATE . . . . . No. 449**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Jason M. Lewis*

*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, increase recycling and generate municipal cost savings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>1/25/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/26/2017</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>2/2/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/30/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/3/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/8/2017</i>

**SENATE . . . . . No. 449**

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By Mr. Lewis, a petition (accompanied by bill, Senate, No. 449) of Jason M. Lewis, Chris Walsh, Marjorie C. Decker, Steven Ultrino and other members of the General Court for legislation to reduce solid waste, increase recycling and generate municipal cost savings. Environment, Natural Resources and Agriculture.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
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An Act to reduce solid waste, increase recycling and generate municipal cost savings.

*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. Chapter 16 of the General Laws is hereby amended by adding after section  
2 21 the following new section:-

3 Section 21A. (a) In conjunction with the statewide solid waste master plan, the  
4 department shall establish annual performance target goals for municipal solid waste reduction,  
5 based on total pounds of solid waste disposed per resident served per year. The department, in  
6 consultation with the solid waste advisory committee, shall consider the costs and benefits to a  
7 municipality in the setting of such goals.

8 (b) Each municipality shall make a written report to the department, no later than first day  
9 of September of each year, of the total weight of solid waste disposed during the prior fiscal  
10 year, as well as the approximate number of households and residents served by that

11 municipality's solid waste disposal program. Such report shall be made in a form and with the  
12 information, as prescribed by the department.

13 SECTION 2. All terms are defined as in 310 CMR 19.00 and in the Guidance for Solid  
14 Waste Handling and Disposal Facilities on Compliance with department of environmental  
15 protection's waste bans.

16 SECTION 3. All solid waste management facilities must remove and divert from disposal  
17 all waste ban materials to the greatest extent possible. Failure to remove waste ban materials to  
18 the greatest extent possible shall result in enforcement action by department of environmental  
19 protection or an officer of the municipality in which the solid waste management facility in  
20 located.

21 SECTION 4. The department of environmental protection and the host municipality shall  
22 use the following action level thresholds in deciding to undertake enforcement:

23 A. All waste ban materials banned by 310 CMR 19.017 prior to January 1, 2013 are  
24 unacceptable in any quantity.

25 B. The action levels for all waste ban materials banned by 310 CMR 19.017 after January  
26 1, 2013 shall be 10 per cent.

27 C. Once a waste ban material has been banned by 310 CMR 19.017 for 24 months it shall  
28 be unacceptable in any quantity.

29 SECTION 5. The department of environmental protection and the host municipality will  
30 conduct frequent load inspections to determine whether loads contain waste ban materials. If a  
31 load contains waste ban materials in excess of the allowable amounts, the hauler shall be fined

32 \$100. If the hauler has more than 5 fines in a calendar year, the hauler shall not be permitted to  
33 bring waste to that solid waste management facility for 1 calendar year.

34 SECTION 6. All fines shall be paid to the department of environmental protection if  
35 levied by a department of environmental protection officer, or to the Host Municipality if levied  
36 by an officer of the host municipality. The department of environmental protection and the host  
37 municipality shall use the fines to fund municipal and other recycling programs, composting  
38 programs, composting and recycling education programs and any and all other programs  
39 promoting zero waste principles at the state or municipal level, respectively. The department of  
40 environmental protection shall refer to the state's fund as the "Zero Waste Fund," and the  
41 department of environmental protection shall have the sole discretion as to how the Zero Waste  
42 Fund is spent.

43 SECTION 7. The department of environmental protection shall collect a \$1.50 per ton  
44 surcharge on all waste disposed of at a solid waste disposal facility from the solid waste disposal  
45 facility operators. All surcharge monies shall also become part of the Zero Waste Fund and used  
46 to fund municipal and other recycling programs, composting programs, composting and  
47 recycling education programs and any and all other programs promoting zero waste principles.

48 SECTION 8. All entities that provide solid waste collection services in the  
49 commonwealth shall be subject to regulation by the department. In order to operate in the  
50 commonwealth, haulers shall register with the department, subject to an administrative fee as set  
51 by the department. All registered haulers shall document to the department the methods of their  
52 provision of comprehensive and convenient collection services to all their customers to recover  
53 and avoid disposal of the following materials at a minimum: recyclable paper; metal , glass and

54 rigid plastic containers; and any other materials specified by the department which are banned  
55 from disposal pursuant to 310 CMR 19.017, and which are regularly generated by their service  
56 recipients.

57 SECTION 9. Collection of waste and recovered materials shall be provided to customers  
58 by haulers at a single rate, and in such a way as to encourage recovery and discourage the  
59 disposal of recoverable commodities, with conditions for exemptions to be determined by the  
60 department. Receptacles of the appropriate sizes for the various waste streams shall be provided,  
61 located in proximity to each other, and collected regularly. Except under extreme circumstances  
62 as determined by the department, recyclables shall not be brought to a disposal facility either in  
63 or outside the Commonwealth, but shall be delivered to a facility that will put the materials to  
64 their highest beneficial use. Documentation of this shall be provided to the department.

65 SECTION 10. Haulers shall annually provide each customer with instructions on the  
66 proper use of their comprehensive waste management service.

67 SECTION 11. The department shall have the authority and responsibility to enforce the  
68 provisions of 310 CMR 19.017 on generators and haulers as well as disposal facilities, and to  
69 make public all enforcement actions resulting in penalties.

70 SECTION 12. The measurement of solid waste as stipulated by the department of  
71 environmental protection shall be reported to said department by the waste and recycling  
72 processing facilities of the commonwealth, and by all haulers who transport material for disposal  
73 and recycling outside the commonwealth by February 1 of each year, covering the period from  
74 January 1 to December 31 of the preceding year. The department will issue a report each year

75 available to the public which compiles solid waste management results in the aggregate by  
76 material from all waste haulers in the commonwealth.

77 The department shall promulgate rules and regulations stipulating the enforcement and  
78 appeals processes with regard to penalties for failure to comply with this act. Any surcharge  
79 levied by the department of environmental protection may be appealed to said department  
80 pursuant to the rules and regulations provided for in this section. The determination of said  
81 department with regard to an appeal may be appealed to superior court.

82 SECTION 13. Revenue from registration fees and enforcement penalties provided for in  
83 this act shall be credited to the Zero Waste Fund.

84 SECTION 14. Monies from the Zero Waste Fund may be used to provide low interest  
85 loans to haulers for equipment with which to implement the provisions of the regulations  
86 promulgated as a result of this Act. The commissioner shall cause to be filed with the chairs of  
87 the House and Senate committees on ways and means an annual report regarding the revenues,  
88 expenditures and loans provided from said expendable trust.

89 SECTION 15. The department of environmental protection shall make training available  
90 to all haulers with regard to the regulations pursuant to the collection and reporting of solid waste  
91 disposal and recovery information. In the event of intentional false or negligent reporting of solid  
92 waste information to said department by any hauler, the commissioner of the department of  
93 environmental protection shall be authorized to fine said hauler no more than \$2,000 for each  
94 instance of false reporting .

95 SECTION 16. The department of environmental protection may promulgate rules and  
96 regulations to ensure the implementation of this Act, including, without limitation, rules and

97 regulations that govern enforcement, grant programs funded by registration and penalty-related  
98 revenue, and the means of measuring solid waste and recovered material volumes.