HOUSE DOCKET, NO. 2638 FILED ON: 1/17/2019

HOUSE . . . . . No. 2906

The Commonwealth of Massachusetts

PRESENTED BY:

James M. Murphy

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 requiring executive agency liability.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
James M. Murphy	*4th Norfolk*	*1/17/2019*
Mark J. Cusack	*5th Norfolk*	*1/29/2019*

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By Mr. Murphy of Weymouth, a petition (accompanied by bill, House, No. 2906) of James M. Murphy and Mark J. Cusack relative to executive agency liability in the construction of, or events involving, natural gas pipelines or natural gas compressor stations. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act requiring executive agency liability.

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: Definitions

(a) Attorney General: The Attorney General of the Commonwealth of Massachusetts

(b) Department of Environmental Protection: The Department of Environmental Protection as authorized and created under Chapter 21A of the General Laws of the Commonwealth of Massachusetts

(c) Department of Public Utilities: The Department of Public Utilities and authorized and created under Chapter 25 of the General Laws of the Commonwealth of Massachusetts

(d) Wanton and reckless behavior: when a person is aware of and consciously disregards a substantial and unjustifiable risk that their acts, or omissions where there is a duty to act, would result in serious bodily injury or substantial risk to residents of the Commonwealth of Massachusetts

(e) License: Any license or permit issued by an Agency of the Commonwealth of Massachusetts

(f) Natural Gas Compressor Station: Any facility that compresses or directly assists with the compression or transportation of natural gas

(g) Natural Gas Pipeline: Any pipes that transport, or directly assist with the compression or transportation of natural gas

(h) Official act: Any decision or action in a particular matter of processing a license or permit application.

(i) Official responsibility: The direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and whether personal or through subordinates, to approve, disapprove or otherwise direct agency action.

(j) Participate: Participate in agency action or in a particular matter personally and substantially as a state, employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise.

(k) Public Emergency: Any event involving a natural gas pipeline or natural gas compressor station which causes substantial harm to people of the Commonwealth of Massachusetts including but not limited to explosions, fires, evacuation of communities, substantial harm to property, substantial public health impacts, or otherwise has impacts that significantly disrupt the lives of people and businesses in the Commonwealth of Massachusetts

(l) Public Employee: A person performing services for or holding an office, position, employment, or membership in a state agency, whether by election, appointment, contract of hire

or engagement, whether serving with or without compensation, on a full, regular, part-time, intermittent, or consultant basis.

SECTION 2: If the construction of a natural gas pipeline or natural gas compressor station results in a public emergency, and the construction of the natural gas pipeline or natural gas compressor station required a license, permit, or other official act as a result of the official responsibility of the Department of Environmental Protection or Department of Public Utilities, the Attorney General of the Commonwealth of Massachusetts shall convene an investigation into the licensing and permitting process and any official actions taken by the Department of Environmental Protection or Department of Public Utilities. The Attorney General shall determine if, during the course of this process, the Department(s) had official responsibility regarding the official act to issue permits or licenses and willfully ignored significant risk to the public safety, the public health, and the wellbeing of the people of the Commonwealth of Massachusetts when performing an official act to issue a license for a natural gas pipeline or natural gas compressor station.

If it is found that the Department of Environmental Protection or Department of Public Utilities and public employees under their purview engaged in negligent or wanton and reckless behavior, any public employee which had official responsibility regarding the official act to issue permits or licenses shall be civilly liable and subject to damages.

For the purposes of this section, wanton or reckless behavior shall be based on an employee's participation in official actions taken through the Department of Environmental Protection or Department of Public Utilities as a result of their official responsibilities to make a determination on permits or licenses for natural gas pipelines or natural gas compressor stations

and the judgement shall be made absent consideration of federal laws as justification for issuing licenses and permits.

Any public employee which had official responsibility regarding the official act to issue permits or licenses of a natural gas compressor station who is found to have acted negligently in the issuance of said permits or licenses shall be subject to damages under Chapter 229 of the General Laws of the Commonwealth of Massachusetts.