

HOUSE No. 3894

The Commonwealth of Massachusetts

PRESENTED BY:

Tram T. Nguyen

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 protecting the public from damages caused by public utility companies.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>1/17/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/30/2019</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>6/3/2019</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>1/31/2019</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/1/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/1/2019</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>1/25/2019</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>1/30/2019</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>1/30/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/1/2019</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>1/24/2019</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/1/2019</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>2/1/2019</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>1/24/2019</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>1/29/2019</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/1/2019</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>6/4/2019</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>6/4/2019</i>

<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>6/4/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>6/4/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>6/4/2019</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>6/5/2019</i>

HOUSE No. 3894

By Ms. Nguyen of Andover, a petition (accompanied by bill, House, No. 3894) of Tram T. Nguyen and others relative to property damages caused by public utility companies. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

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

An Act relative to protecting the public from damages caused by public utility companies.

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 25 of the General Laws is hereby amended by adding the following
2 section:-

3 Section 24. (a) For purposes of this section, a “gas company” shall mean a provider of
4 gas services that is subject to regulation by the department of public utilities, and shall include a
5 municipal utility company or department providing such services.

6 (b) A person or entity whose property is alleged to have been damaged by a gas company
7 subject to regulation by the department may file a complaint with the department requesting an
8 adjudicatory hearing. The department shall conduct adjudicatory proceedings requested pursuant
9 to this subsection in accordance with chapter 30A; and may award monetary damages and
10 provide equitable relief. There shall be a presumption that the gas company acted negligently in
11 causing the property damage and the burden shall be on the gas company to provide evidence
12 rebutting the presumption; provided, that the aggrieved party shall be required to prove actual

13 damages; and provided further, that nothing in this subsection shall preclude a person or entity
14 from bringing a claim of strict liability, and strict liability shall apply where strict liability is
15 otherwise prescribed by law. A party aggrieved by a final adjudicatory determination of the
16 department may obtain judicial review thereof pursuant to chapter 30A. A person or entity that
17 pursues an action for damages pursuant to this subsection shall be precluded from pursuing an
18 action for damages under subsection (c).

19 (c) A person or entity whose property is alleged to have been damaged by a gas company
20 may, as an alternative to pursuing an action under subsection (b), bring an action in superior
21 court. There shall be a presumption of negligence on the part of the gas company and the burden
22 shall be on the gas company to provide evidence rebutting the presumption; provided, that the
23 aggrieved party shall be required to prove actual damages; and provided, further, that nothing in
24 this subsection shall preclude a person or entity from bringing a claim of strict liability, and strict
25 liability shall apply where strict liability is otherwise prescribed by law. A person or entity that
26 pursues an action for damages pursuant to this subsection shall be precluded from pursuing an
27 action for damages under subsection (b).

28 (d) No clause in a contract for gas services mandating arbitration or indemnifying or
29 limiting liability of a gas company shall preclude a person or entity from seeking recovery of
30 actual damages pursuant to this section.

31 (e) No tariff approved by the department shall preclude a person or entity from seeking
32 recovery of actual property damages pursuant to this section.

33 (f) The department shall promulgate regulations as necessary to implement this section;
34 including, but not limited to, regulations governing adjudicatory proceedings brought pursuant to
35 this section.

36 SECTION 2. Subsection (d) of section 24 of chapter 25 of the General Laws shall apply
37 to contracts entered into on or after the effective date of this act.

38 SECTION 3. Subsection (e) of section 24 of chapter 25 of the General Laws shall apply
39 to tariffs approved on or after the effective date of this act.