

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

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 environmental justice in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Sal N. DiDomenico	Middlesex and Suffolk	
Walter F. Timilty	Norfolk, Bristol and Plymouth	1/25/2019
Maria Duaime Robinson	6th Middlesex	1/24/2019
Thomas M. Stanley	9th Middlesex	1/25/2019
Mike Connolly	26th Middlesex	1/25/2019
Jack Patrick Lewis	7th Middlesex	1/29/2019
Jason M. Lewis	Fifth Middlesex	1/29/2019
Michelle M. DuBois	10th Plymouth	1/30/2019
Joanne M. Comerford	Hampshire, Franklin and Worcester	1/30/2019
Joseph A. Boncore	First Suffolk and Middlesex	1/30/2019
Adam G. Hinds	Berkshire, Hampshire, Franklin and Hampden	1/30/2019
Anne M. Gobi	Worcester, Hampden, Hampshire and Middlesex	1/30/2019
James B. Eldridge	Middlesex and Worcester	1/31/2019
Paul R. Feeney	Bristol and Norfolk	1/31/2019
Mary S. Keefe	15th Worcester	1/31/2019
David Henry Argosky LeBoeuf	17th Worcester	1/31/2019

Michael O. Moore	Second Worcester	1/31/2019
Lori A. Ehrlich	8th Essex	1/31/2019
Joseph W. McGonagle, Jr.	28th Middlesex	1/31/2019
Marc R. Pacheco	First Plymouth and Bristol	2/1/2019
Patricia D. Jehlen	Second Middlesex	2/1/2019
Michael D. Brady	Second Plymouth and Bristol	2/1/2019
Rebecca L. Rausch	Norfolk, Bristol and Middlesex	2/1/2019
Jennifer E. Benson	37th Middlesex	2/1/2019
Julian Cyr	Cape and Islands	2/1/2019
Sonia Chang-Diaz	Second Suffolk	2/11/2019
John J. Lawn, Jr.	10th Middlesex	2/11/2019

SENATE DOCKET, NO. 1885 FILED ON: 1/18/2019 SENATE No. 453

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 453) of Sal N. DiDomenico, Walter F. Timilty, Maria Duaime Robinson, Thomas M. Stanley and other members of the General Court for legislation relative to environmental justice in the Commonwealth. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

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

An Act relative to environmental justice in the Commonwealth.

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. Section 62 of chapter 30 of the General Laws is hereby amended by

2 inserting after the term "Agency" the following terms:-

3	"Environmental Justice," the right to be protected from environmental pollution and to
4	live in and enjoy a clean and healthful environment regardless of race, income, national origin, or
5	English language proficiency. Environmental justice shall include the equal protection and
6	meaningful involvement of all people with respect to the development, implementation, and
7	enforcement of environmental laws, regulations, and policies and the equitable distribution of
8	environmental benefits and burdens.

9 "Environmental Benefits," access to funding, open space (including parks, playgrounds,
10 and other outdoor recreational opportunities), enforcement, technical assistance, training, and

other beneficial resources disbursed by the executive secretariats and their agencies and offices,and provided by municipalities and regional entities.

"Environmental Burdens," environmental pollution from industrial, commercial, state,
and municipal operations and roadways, contaminated properties, and air, water, and drinking
water pollution that is greater than the state average or a violation of federal or state law.

16 "Environmental Justice Population," a neighborhood that meets one or more of these 17 criteria: (a) the annual median household income is equal to or less than 65 percent of the 18 statewide median; (b) minorities comprise 25 percent or more of the population; or (c) 25 percent 19 or more of households lack English language proficiency. Where a neighborhood does not meet 20 any of those criteria, but a geographic portion of that neighborhood meets at least one of those 21 criteria, the Secretary may designate that geographic portion as an environmental justice 22 population upon petition of at least 10 residents of that geographic portion. The Secretary may 23 remove the environmental justice population designation of a neighborhood that meets one or 24 both of these criteria: (a) 25 percent or more of the households lack English language proficiency 25 or (b) minorities comprise 25 percent or more of the population, upon a finding that the annual 26 median household income in that neighborhood is greater than 125 percent of the statewide 27 median household income, that a majority of persons of age 25 and above in that neighborhood 28 have at least a college education, and that the neighborhood does not bear an unfair burden of 29 environmental pollution and does not have only limited access to natural resources such as 30 waterfronts, parks and open space, and water resources.

31 "Equal Protection," no group of people, because of race, ethnicity, class, gender, or
32 handicap bears an unfair share of environmental pollution from industrial, commercial, state and

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municipal operations or has limited access to natural resources, including waterfronts, parks and
 open space, and water resources.

35 "Lacking English Language Proficiency," refers to households that, according to federal
 36 census forms, do not have an adult proficient in English.

37 "Neighborhood," a census block group as defined by the U.S. Census Bureau but not
38 including people who live in college dormitories or people under formally authorized, supervised
39 care or custody such as federal or state prisons.

SECTION 2. Section 62B of chapter 30 of the General Laws is hereby amended by
striking the first sentence of the third paragraph and inserting in place thereof the following
sentence:-

43 An environmental impact report shall contain statements describing the nature and extent 44 of the proposed project; potential environmental impacts and public health impacts, resulting 45 from the construction and operation of the proposed project; proposed studies or program of 46 studies designed to evaluate potential environmental impacts and public health impacts; all 47 measures being utilized to minimize environmental damage and public health damage; any 48 adverse short-term and long-term environmental consequences and public health consequences 49 that cannot be avoided should the project be undertaken; and reasonable alternatives to the 50 proposed project and their environmental consequences and public health consequences.

51 SECTION 3. Section 62B of Chapter 30 of the General Laws is hereby amended by
 52 inserting after the last paragraph the following paragraph:-

53 An environmental impact report shall include an enhanced analysis of impacts and 54 mitigation for any project located in or within one mile of an environmental justice population, 55 and within five miles of an environmental justice population for a project that exceeds an 56 Environmental Notification Form threshold for air. An enhanced analysis shall include, at a 57 minimum, analysis of multiple air impacts; data on baseline public health conditions within the 58 affected environmental justice population; analysis of technological, site planning, and 59 operational alternatives to reduce or eliminate impacts; and proposed on-site and off-site mitigation measures to reduce multiple impacts and increase environmental benefits for the 60 61 affected environmental justice population and to further environmental justice and equal 62 protection for that population. Such enhanced analysis shall include the cumulative impacts or 63 the project.

64 SECTION 4. Section 62C of chapter 30 of the General Laws is hereby amended by65 inserting after the first paragraph the following paragraphs:-

66 To enable the public to participate in decisions that affect their health and safety and the 67 environment, the Secretary shall maximize opportunities for public involvement. Such 68 opportunities shall encourage consultation with the public early in the application processes to 69 foster a robust analysis and the active involvement of the interested or affected persons. In cases 70 where the proposed project has the potential to impact an environmental justice population 71 lacking English language proficiency, said environmental impact report shall be in English and 72 in any other language spoken by a significant number of the environmental justice population, 73 describing the proposed facility and its location, the range of potential environmental and health 74 impacts of each pollutant, the application and review process, and a contact person, with phone number and address, from whom information will be available as the application proceeds. 75

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76 There shall be enhanced public participation for any project located in or within one mile 77 of an environmental justice population, and within five miles of an environmental justice 78 population for a project that exceeds a mandatory Environmental Impact Report threshold for air. 79 Enhanced public participation may include use of alternative media such as community and 80 ethnic newspapers and other media, use of alternative information repositories, and translation of 81 materials or interpretation services prior to and during public meetings where a significant 82 portion of the relevant environmental justice population uses a primary language other than 83 English in their home. When scheduling public meetings, the Secretary shall recommend and 84 may require that project proponents consider the time of the meeting, availability of public 85 transportation, and whether the locations are child-friendly and culturally appropriate. To the 86 extent feasible, meetings should be held in places that community members already routinely use 87 and feel comfortable visiting. Additionally, the Secretary shall recommend that project 88 proponents consider whether outreach efforts should include an educational component to ensure 89 that community members have the information necessary to evaluate a project's potential 90 impacts.

91 SECTION 5. Section 62E of Chapter 30 of the General Laws is hereby amended by
92 inserting after the first paragraph the following paragraph:-

However, no agency shall exempt any project located in an environmental justice
population and reasonably likely to cause damage to the environment, as defined in section 61,
from the provisions of sections 62 to 62H, inclusive. This paragraph shall not apply to
emergency actions essential to avoid or eliminate a threat to public health or safety, or a threat to
any natural resources, undertaken in compliance with section 62F.

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98	SECTION 6. The Secretary shall, not later than 180 days after this act takes effect,
99	promulgate regulations for the requirements, administration, and enforcement of this act.
100	SECTION 7. To further environmental justice, the Department of Environmental
101	Protection shall establish and maintain a Supplemental Environmental Project (SEP) bank. Such
102	bank shall maintain an inventory of environmentally beneficial projects in communities with
103	environmental justice populations that may be funded by violators in lieu of or in addition to
104	paying penalties associated with the settlement of enforcement actions. SEPs shall conform to
105	the Department's policy on Supplemental Environmental Projects, ENF-07.001, as amended.
106	The Department shall establish and maintain a website portal where the public and potential SEP
107	recipients may submit potential SEP projects to be considered for future settlements. For
108	purposes of this provision, a supplemental environmental project is an environmentally
109	beneficial project the implementation of which primarily benefits public health, safety and
110	welfare, and the environment.