

SENATE No. 453

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

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

SENATE No. 453

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 453) of Sal N. DiDomenico, Walter F. Timilty, Maria Duaine 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

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

13 "Environmental Burdens," environmental pollution from industrial, commercial, state,
14 and municipal operations and roadways, contaminated properties, and air, water, and drinking
15 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

33 municipal operations or has limited access to natural resources, including waterfronts, parks and
34 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.

40 SECTION 2. Section 62B of chapter 30 of the General Laws is hereby amended by
41 striking the first sentence of the third paragraph and inserting in place thereof the following
42 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
60 mitigation measures to reduce multiple impacts and increase environmental benefits for the
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 by
65 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
75 number and address, from whom information will be available as the application proceeds.

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:-

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

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.