

SENATE No. 54

The Commonwealth of Massachusetts

PRESENTED BY:

Barry R. Finegold

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 helping residents work remotely.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Barry R. Finegold</i>	<i>Second Essex and Middlesex</i>	
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>2/26/2021</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>	<i>2/26/2021</i>

SENATE No. 54

By Mr. Finegold, a petition (accompanied by bill, Senate, No. 54) of Barry R. Finegold, Maria Duaine Robinson and Linda Dean Campbell for legislation relative to helping residents work remotely by improving internet service. Advanced Information Technology, the Internet and Cybersecurity.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to helping residents work remotely.

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 166 of the General Laws is hereby amended by inserting, after
2 Section 25A, the following new section:-

3 Section 25B.

4 a) The following terms as used in this section shall have the following meanings:

5 “Antenna,” an apparatus designed for the purpose of emitting radiofrequency (RF)
6 radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for
7 the provision of personal wireless service and any commingled information services. For
8 purposes of this definition, the term antenna does not include an unintentional radiator, mobile
9 station, or device authorized under part 15 of 47 CFR.

10 “Antenna equipment,” equipment, switches, wiring, cabling, power sources, shelters or
11 cabinets associated with an antenna, located at the same fixed location as the antenna, and, when
12 collocated on a structure, is mounted or installed at the same time as such antenna.

13 “Antenna facility,” an antenna and associated antenna equipment.

14 “Collocation,” mounting or installing an antenna facility on a pre-existing structure,
15 and/or modifying a structure for the purpose of mounting or installing an antenna facility on that
16 structure.

17 “Deployment,” the placement, construction, or modification of a personal wireless
18 service facility.

19 "FCC", the Federal Communications Commission.

20 “Materially inhibit,” as used in 83 FR 51867.

21 “Facility” or “Personal wireless service facility,” an antenna facility or a structure that is
22 used for the provision of personal wireless service, whether such service is provided on a stand-
23 alone basis or commingled with other wireless communications services.

24 “Joint Committee,” the legislature’s Joint Committee on Advanced Information
25 Technology, the Internet and Cybersecurity

26 “Siting application or application,” a written submission to a siting authority requesting
27 authorization for the deployment of a personal wireless service facility at a specified location.

28 “Siting authority,” any municipality in the commonwealth, including any official or
29 organizational unit thereof, whose authorization is necessary prior to the deployment of personal
30 wireless service facilities and which has a population of greater than 5,000.

31 “Small Wireless Facilities,” facilities that meet the following conditions:

32 (1) The facilities—

33 (i) are mounted on structures 50 feet or less in height including their antennas, or

34 (ii) are mounted on structures no more than 10 percent taller than other adjacent
35 structures, or

36 (iii) do not extend existing structures on which they are located to a height of more than
37 50 feet or by more than 10 percent, whichever is greater;

38 (2) Each antenna associated with the deployment, excluding associated antenna
39 equipment, is no more than three cubic feet in volume;

40 (3) All other wireless equipment associated with the structure, including the wireless
41 equipment associated with the antenna and any pre-existing associated equipment on the
42 structure, is no more than 28 cubic feet in volume;

43 (4) The facilities do not require antenna structure registration under part 17 of 47 CFR;

44 (5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and

45 (6) The facilities do not result in human exposure to radiofrequency radiation in excess of
46 the applicable safety standards specified in section 1.1307(b) of 47 CFR

47 “Structure,” a pole, tower, base station, or other building, whether or not it has an existing
48 antenna facility, that is used or to be used for the provision of personal wireless service (whether
49 on its own or commingled with other types of services).

50 "Wireless provider", any person, firm or corporation other than a utility, which provides
51 telecommunications service and is registered with the department of telecommunications and
52 cable to provide telecommunications services

53 b) The department shall have the authority to investigate and evaluate whether a siting
54 authority has materially inhibited the deployment of a small wireless facility, provided that the
55 department has received a written inquiry from the wireless provider that is trying to deploy said
56 small wireless facility and provided that the wireless provider has reasonable cause to believe
57 such small wireless facility shall not be inhibited.

58 If the department determines that a siting authority has materially inhibited the
59 deployment of said small wireless facility, the department shall be required, within 10 days of
60 the final determination, to issue a public notice to such siting authority to allow the deployment
61 of said small wireless facility. At any point after six months following the issuance of a public
62 notice to a given siting authority, if the department subsequently receives another written inquiry
63 from the wireless provider that is trying to deploy said small wireless facility, the department
64 shall re-evaluate and determine whether such siting authority has continued to have materially
65 inhibited the deployment of said small wireless facility, and if so, the department shall issue
66 another public notice to such siting authority to allow the deployment of said small wireless
67 facility. Until the department has determined that the siting authority no longer is materially
68 inhibiting the deployment of said small wireless facility, a wireless provider may continue to

69 send in written inquiries to the department, as long as six months have elapsed since the issuance
70 of the most recent public notice to such siting authority.

71 c) The department shall have the authority to levy a fine of no greater than \$5,000 if a
72 wireless provider submits an inquiry without reasonable cause.

73 d) On July 15, 2024, and every year thereafter, the department shall be required to issue a
74 report to the Joint Committee. The report shall list all municipalities that, as of July 1 of that
75 calendar year: (i) previously received a public notice from the department to allow the
76 deployment of a small wireless facility, ii) were found to have continued to have materially
77 inhibited the deployment of a given small wireless facility, according to the department's most
78 recent determination in that calendar year; and iii) remain without access, as determined by the
79 department, to 5G services from at least one wireless provider.

80 e) Any municipality that appears in the department's annual report specified in subsection
81 (c) shall be required to contribute to the general fund the equivalent of 10% of the aggregate
82 monies received by the municipality in the previous calendar year through Chapter 90 of the
83 General Laws.

84 f) By December 31st of 2021 and each year thereafter, a wireless provider shall submit an
85 annual report both to the department and to the Joint Committee. The wireless provider must
86 include the following information in the report:

87 (i) A list of municipalities in the commonwealth that currently have access, in part or in
88 full, to 5G services offered by said wireless provider. The wireless provider shall also specify: a)
89 the gateway municipalities, as defined by Section 3A of Chapter 23A of the General Laws, that
90 have access, in part or in full, to 5G services offered by that wireless provider and b) the

91 municipalities with fewer than 15,000 people that have access, in part or in full, to 5G services
92 offered by that wireless provider.

93 (ii) To the extent possible, the total number of its small wireless facilities in each
94 municipality in the commonwealth. The wireless provider must specify: a) the number of its
95 small wireless facilities in gateway municipalities, as defined by Section 3A of Chapter 23A of
96 the General Laws, and b) the number of its small wireless facilities in municipalities with fewer
97 than 15,000 people.

98 (iii) A brief summary of all written inquiries that said wireless provider has submitted to
99 the department about instances in which said provider believes that a siting authority has
100 materially inhibited the deployment of a small wireless facility.

101 (iv) Its plan for ensuring that all municipalities achieve access to its 5G services by the
102 end of 2024. Such plan shall specify plans for deploying small wireless facilities in: a) gateway
103 municipalities, as defined by Section 3A of Chapter 23A of the General Laws, and b)
104 municipalities with fewer than 15,000 people. Such plan shall also specify estimated capital
105 expenditures on the deployment of small wireless facilities in the next calendar year.

106 g) Following the submission of a wireless provider's annual report, if either the
107 department or the Joint Committee determines that a wireless provider is not making reasonable
108 progress towards ensuring that all municipalities achieve access to 5G services by the end of
109 2024, said wireless provider shall be required to testify at a public hearing, held by the Joint
110 Committee, about the deployment of its 5G services in the commonwealth.

111 h) The department shall promulgate additional rules and regulations to implement this
112 section within one year of the effective date of this act.