

SENATE No. 1629

The Commonwealth of Massachusetts

PRESENTED BY:

Michael O. Moore

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 building a more accessible Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/22/2021</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>2/22/2021</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/24/2021</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/25/2021</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>3/1/2021</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/8/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>6/9/2021</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	<i>7/12/2021</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>7/12/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>4/27/2022</i>

SENATE No. 1629

By Mr. Moore, a petition (accompanied by bill, Senate, No. 1629) of Michael O. Moore, Lindsay N. Sabadosa, Michael D. Brady, Michael J. Barrett and other members of the General Court for legislation relative to the Architectural Access Board. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1441 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act building a more accessible Massachusetts.

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. The first paragraph of section 13A of chapter 22 of the General Laws, as
2 appearing in the 2018 Official Edition, is hereby amended by striking out the second and third
3 sentences and inserting in place thereof the following 3 sentences:-

4 “Two of the appointive members shall be architects licensed to practice in the
5 commonwealth. One of the appointive members shall be a licensed building inspector. Three of
6 the appointive members shall be selected after consultation with advocacy groups on behalf of
7 persons with disabilities”

SECTION 2. The first paragraph of section 13A of chapter 22 of the General Laws, as so appearing, is hereby further amended by striking out the fourth paragraph, in lines 38 through 63, and inserting in place thereof the following four paragraphs:-

The board shall make and from time to time alter, amend, and repeal, in accordance with the provisions of chapter thirty A, rules and regulations designed to make multiple dwellings, and public buildings and facilities, including but not limited to areas that are not generally in public use, accessible to, functional for and safe for use by persons with disabilities. The board shall also make rules and regulations requiring that any person who has lawful control of improved or enclosed private property used as off-street parking areas where the public has a right of access as invitees or licensees, shall reserve parking spaces in said off-street parking areas for vehicles authorized to display handicapped plates or placards under section 2 of chapter 90; provided, that the parking requirements shall be consistent with the Americans with Disabilities Act Standards for Accessible Design. The parking spaces reserved for vehicles of such handicapped persons shall be clearly marked as such.

The rules and regulations of the board shall also establish standards and procedures designed to make adaptable for persons with physical disabilities for any building, regardless of the date of construction, (1) all dwelling units in multiple dwellings equipped with an elevator; (2) all ground floor dwelling units in multiple dwellings not equipped with an elevator; and (3) all public use and common use portions of such multiple dwellings, providing however, that in any building constructed before March thirteenth, nineteen hundred and ninety one, such standards and procedures for dwelling units shall apply only to such units within (1) any non-residential building undergoing a gut rehabilitation as part of a change in use into a multiple dwelling facility, or (2) any residential building which is vacant undergoing a gut rehabilitation.

31 The rules and regulations of the board shall establish standards and procedures designed
32 to make accessible to, functional for and safe for use by persons with physical disabilities
33 residential buildings whenever constructed and without the restrictions in the above paragraph.
34 Unless otherwise specified, five percent of the units in lodging or residential facilities for hire,
35 rent or lease, containing twenty or more units, shall meet this requirement; provided, however,
36 that accessible units shall allow five feet of turning radius for a wheelchair in the kitchens and
37 bathrooms. In the event that the board determines that the need, in certain areas of the
38 commonwealth, for such units either exceeds or does not require said five percent, the board may
39 require that, in said areas a percentage of units less than five percent or not greater than ten
40 percent be accessible and safe for persons with disabilities; provided, however, that said
41 accessible units shall allow five feet of turning radius for a wheelchair in the kitchens and
42 bathrooms. The board may make such determination only if there is sufficient factual basis,
43 using data from the central registry of the Massachusetts Rehabilitation Commission and other
44 sources, to establish with a reasonable degree of certainty the present and future needs for said
45 accessible units in certain areas of the commonwealth. A percentage of less than five percent
46 shall not be established unless such accessible units, which are not needed by persons with
47 disabilities cannot be readily hired, rented, or leased to other persons.

48 The rules and regulations of the board shall include, but not be limited to, detailed
49 architectural standards further defining adaptable and accessible dwelling units, and such other
50 provisions necessary to provide rights and remedies substantially equivalent to or greater than
51 the rights and remedies provided by the Federal Fair Housing Act, the Department of Justice's
52 Americans with Disabilities Act Standards for Accessible Design and regulations thereunder as
53 they pertain to such multiple dwellings.

SECTION 3. Said section 13A of said chapter 22, as so appearing, is hereby further amended by striking out, in lines 11 and 12, the words “in behalf of the physically handicapped” and inserting in place thereof the following words:-

“on behalf of persons with disabilities”.

SECTION 4. Said section 13A of said chapter 22, as so appearing, is hereby further amended by inserting after the word “buildings”, in line 67, the following words:-

“and facilities”.

SECTION 5. Said section 13A of said chapter 22, as so appearing, is hereby further amended by inserting after the word “buildings”, in line 75, the following words:-

“and facilities”.

SECTION 6. Said section 13A of said chapter 22, as so appearing, is hereby further amended by striking out, in lines 80 and 81, the words “handicapped persons,” and inserting in place thereof the following words:-

“persons with a disability”.

SECTION 7. Said section 13A of said chapter 22, as so appearing, is hereby further amended by striking out, in lines 88 and 89 the word “newspaper” and inserting in place thereof the following words:-

“forms of”.

SECTION 8. Said section 13A of said chapter 22, as so appearing, is hereby further amended by inserting after the word “building”, in line 93, the following words:-

74 “or facility, including Areas not generally in Public Use”

75 SECTION 9. Said section 13A of said chapter 22, as so appearing, is hereby further
76 amended by inserting after the word “building”, in line 94, the following words:-

77 “or facility”.

78 SECTION 10. Said section 13A of said chapter 22, as so appearing, is hereby further
79 amended by inserting after the word “changed to a”, in line 94, the following words:-

80 “residential use or a”.

81 SECTION 11. Said section 13A of said chapter 22, as so appearing, is hereby further
82 amended by inserting, in line 94, after the words “which the building” the following words:-

83 “or facility.”

84 SECTION 12. Said section 13A of said chapter 22, as so appearing, is hereby further
85 amended by inserting after the word “building”, in line 96, the following words:-

86 “or facility”.

87 SECTION 13. Said section 13A of said chapter 22, as so appearing, is hereby further
88 amended by striking out, in lines 102 and 103, the words “physically handicapped persons” and
89 inserting in place thereof the following words:-

90 “persons with a disability”.

91 SECTION 14. Said section 13A of said chapter 22, as so appearing, is hereby further
92 amended by striking out the eighth paragraph, consisting of lines 107 through 127.

SECTION 15. Said section 13A of said chapter 22, as so appearing, is hereby further amended by striking out, in lines 131 and 132, the word “person” and inserting in place thereof the following words:-

“building, or portion thereof.”.

SECTION 16. Said section 13A of said chapter 22, as so appearing, is hereby further amended by inserting after the words “for a building”, in line 150, the following words:-

“or facility”.

SECTION 17. Said section 13A of said chapter 22, as so appearing, is hereby further amended by inserting after the word “building”, in line 166, the following word:-

“, facility”.

SECTION 18. Said section 13A of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 177, 179 and 187 the words “physically handicapped persons” and inserting in place thereof, in each instance, the following words:-

“persons with a disability”.

SECTION 19. Said section 13A of said chapter 22, as so appearing, is hereby further amended by inserting after the definition of “Alteration”, the following definition:-

“Areas that are not generally in public use,” areas not intended for use by the public, as designated in the 1991 and 2010 Americans with Disabilities Act (ADA) Standards for Accessible Design, and employee work areas.

SECTION 20. Said section 13A of said chapter 22, as so appearing, is hereby further amended by inserting after the definition of “Construction” the following definitions:-

“Employee work area” all or any portion of a space used only by employees and used only for work. Corridors, toilet rooms, kitchenettes and break rooms are considered “employee work areas” and shall be made accessible in new construction, or where renovation work being performed is otherwise subject to the jurisdiction of the Board. Corridors, toilet rooms, kitchenettes and break rooms are not otherwise considered “employee work areas;” provided however, that where corridors, toilet rooms, kitchenettes and break rooms constitute the path of travel to or are essential to the use of employees for work, they shall be, when possible, adaptable.

“Facility”, all or any portion of a building, structure, site improvement, complex, equipment, road, walk, passageway, parking lot or other real or personal property, including the site where the building, property, structure or equipment is located.”

“Gut rehabilitation,” the general replacement of the interior of a building that may or may not include changes to structural elements such as flooring systems, columns or load bearing interior or exterior walls.

SECTION 21. Said section 13A of said chapter 22, as so appearing, is hereby further amended by striking out the definition of “Public building” and inserting in place thereof the following definition:-

“Public building”, buildings constructed by the commonwealth or any political subdivision thereof with public funds and open to public use, including, but not limited to, those constructed by public housing authorities, the Massachusetts Port Authority, the Massachusetts

134 Parking Authority, the Massachusetts Department of Transportation, the Massachusetts Bay
135 Transportation Authority, or building authorities of any public educational institution, or their
136 successors; and privately financed buildings that are open to and used by the public, including
137 but not limited to places of public accommodation listed in section 92A of chapter 272 of the
138 General Laws, and 42 U.S.C. section 12181(7).

139 SECTION 22. Said section 13A of said chapter 22, as so appearing, is hereby further
140 amended by striking out, in line 200, the words “Physically handicapped person” and inserting in
141 place thereof the following words:-

142 “Person with a disability”.

143 SECTION 23. Said section 13A of said chapter 22, as so appearing, is hereby further
144 amended by striking out, in line 204, the words “Physically handicapped persons” and inserting
145 in place thereof the following words:-

146 “A person with a disability.”

147 SECTION 24. Not later than ninety days after the effective date of this act, the
148 Architectural Access Board shall promulgate regulations as necessary pursuant to this act’s
149 amendments of Chapter 22, section 13A.