

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Edward J. Kennedy

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 liability for release of hazardous materials.

PETITION OF:

NAME:

Edward J. Kennedy

DISTRICT/ADDRESS:

First Middlesex

SENATE No.

By Mr. Kennedy, a petition (accompanied by bill) (subject to Joint Rule 12) of Edward J. Kennedy for legislation relative to liability for release of hazardous materials. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

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

An Act relative to liability for release of hazardous materials.

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 5C of chapter 21E of Massachusetts General Laws, as so appearing, is hereby
2 amended by adding the following subsections:-

3 (1) A department audit of response actions at the site or portion of the site owned or
4 operated by an eligible person, as delineated in a waste site cleanup activity opinion, for which a
5 permanent solution or remedy operations status exists and is maintained or has been achieved
6 and maintained in accordance with such opinion, which identifies no violations of this chapter
7 and regulations promulgated thereto, or if such violations are identified, they are promptly
8 corrected, shall be deemed as conclusive evidence that the eligible person has no liability, and
9 the department may take no action as to such eligible person, for any releases at any property not
10 previously identified as part of the site or any other disposal site. Notwithstanding any general or
11 special law to the contrary, the department shall not promulgate regulations relative to this
12 section.

13 (m) No person shall be liable for any substantial release migration at any property not
14 previously identified as part of a disposal site or any other disposal site if the department of
15 environmental protection: (i) has, at any time before the effective date of this act, performed an
16 audit of response actions at a site, or a part of a site; and (ii) (1) determined that a permanent
17 solution or remedy operations status was achieved and maintained in accordance with a waste
18 site cleanup activity opinion or any other notification to such person or (2) has notified such
19 person that a violation of chapter 21E of the General Laws or any regulation was identified and
20 promptly corrected.

21 (n) The department shall have no defense in any action or claim, nor shall the department
22 present evidence to contest liability of an eligible person, upon a showing that a permanent
23 solution or remedy operations status was achieved and maintained.

24 (o) For properties impacted by any substantial release migration from any property not
25 previously identified as part of a disposal site or any other disposal site, the department shall take
26 or arrange for such response actions as it reasonably deems necessary to assure a condition of no
27 significant risk of harm to human health exists or has been achieved at any such impacted
28 property."