

HOUSE No. 2131

The Commonwealth of Massachusetts

PRESENTED BY:

Christine P. Barber and Mike Connolly

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 to improve outdoor and indoor air quality for communities burdened by pollution.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>1/19/2023</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/19/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/19/2023</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>1/19/2023</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>1/25/2023</i>
<i>Christopher J. Worrell</i>	<i>5th Suffolk</i>	<i>1/26/2023</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/27/2023</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>1/27/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>1/30/2023</i>
<i>Adrienne Pusateri Ramos</i>	<i>14th Essex</i>	<i>1/31/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/31/2023</i>
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>2/2/2023</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/3/2023</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>2/3/2023</i>
<i>Jennifer Balinsky Armini</i>	<i>8th Essex</i>	<i>2/4/2023</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>2/6/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>2/6/2023</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>2/7/2023</i>

<i>Steven Owens</i>	<i>29th Middlesex</i>	<i>2/7/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/7/2023</i>
<i>Simon Cataldo</i>	<i>14th Middlesex</i>	<i>2/8/2023</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>2/8/2023</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>2/8/2023</i>
<i>Margaret R. Scarsdale</i>	<i>1st Middlesex</i>	<i>2/9/2023</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/9/2023</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/10/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/10/2023</i>
<i>James C. Arena-DeRosa</i>	<i>8th Middlesex</i>	<i>2/12/2023</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>2/13/2023</i>
<i>Kate Donaghue</i>	<i>19th Worcester</i>	<i>2/14/2023</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>2/20/2023</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>2/20/2023</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>2/22/2023</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>2/22/2023</i>
<i>Rob Consalvo</i>	<i>14th Suffolk</i>	<i>2/23/2023</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/23/2023</i>
<i>Christopher Richard Flanagan</i>	<i>1st Barnstable</i>	<i>2/24/2023</i>
<i>Rodney M. Elliott</i>	<i>16th Middlesex</i>	<i>2/26/2023</i>
<i>Lydia Edwards</i>	<i>Third Suffolk</i>	<i>3/2/2023</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>3/13/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>3/13/2023</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>3/22/2023</i>
<i>Judith A. Garcia</i>	<i>11th Suffolk</i>	<i>3/26/2023</i>
<i>Sally P. Kerans</i>	<i>13th Essex</i>	<i>4/3/2023</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	<i>7/18/2023</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>9/13/2023</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>9/29/2023</i>
<i>Tricia Farley-Bouvier</i>	<i>2nd Berkshire</i>	<i>10/12/2023</i>
<i>Edward R. Philips</i>	<i>8th Norfolk</i>	<i>12/2/2023</i>
<i>Smitty Pignatelli</i>	<i>3rd Berkshire</i>	<i>12/5/2023</i>
<i>Manny Cruz</i>	<i>7th Essex</i>	<i>12/8/2023</i>
<i>John J. Mahoney</i>	<i>13th Worcester</i>	<i>12/12/2023</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/9/2024</i>
<i>Priscila S. Sousa</i>	<i>6th Middlesex</i>	<i>1/18/2024</i>
<i>Kristin E. Kassner</i>	<i>2nd Essex</i>	<i>1/26/2024</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>1/31/2024</i>

HOUSE No. 2131

By Representatives Barber of Somerville and Connolly of Cambridge, a petition (accompanied by bill, House, No. 2131) of Christine P. Barber, Mike Connolly and others for legislation to improve outdoor and indoor air quality for communities burdened by pollution. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to improve outdoor and indoor air quality for communities burdened by pollution.

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.

2 Chapter 111 of the Massachusetts General Laws is hereby amended by adding the
3 following definitions in section 1:

4 “black carbon” shall mean those fine particles less than or equal to 2.5 micrometers in
5 diameter (also known as soot).

6 “environmental justice population” shall mean the populations defined in section 62 of
7 chapter 30.

8 “HEPA filtration” shall mean a high efficiency particulate arrestance filtration system
9 that removes at least 99 percent of dust, pollen, mold, bacteria, and any airborne particles with a
10 size of 0.3-10.0 microns and is equivalent to a MERV 17, MERV 18, MERV 19, or MERV 20
11 filter.

12 “MERV 16 filter” shall mean a minimum efficiency reporting value filtration system that
13 removes at least 95 percent of dust, pollen, mold, bacteria, and any airborne particles with a size
14 of 0.3-10.0 microns.

15 “particulate matter” or “particulates” shall mean a broad class of chemically and
16 physically diverse substances that exist as discrete particles in air, including coarse, fine, and
17 ultrafine particles.

18 “fine particulate matter” or “fine particulates” shall mean particulate matter less than or
19 equal to 2.5 micrometers in diameter.

20 “ultrafine particulate matter” or “ultrafine particulates” shall mean particulate matter less
21 than or equal to .1 micrometers in diameter (.1 micrometers is equivalent to 100 nanometers).

22 SECTION 2.

23 Chapter 21A of the General Laws, as appearing in the 2022 Official Edition, is hereby
24 amended by inserting after section 18A, as Section 18B, the following section:

25 The department of environmental protection, in consultation with the executive office of
26 energy and environmental affairs and department of environmental health, shall convene a
27 technical advisory committee comprised of: residents of environmental justice populations living
28 adjacent to major highways; academics with expertise in air monitoring, environmental health,
29 air toxics, and air pollution; and labor representatives; for the purpose of identifying
30 communities with high cumulative exposure burdens for toxic air contaminants and criteria
31 pollutants. The department shall convene the technical advisory committee by December 1,
32 2024. The technical advisory committee shall identify the likely air pollution hotspots due to

33 high concentrations of traffic-related air pollution throughout the Commonwealth that should be
34 equipped with new or expanded air monitors and establish a definition of “air quality” and “air
35 quality target pollutants” that includes, but is not limited to, consideration of criteria pollutants,
36 black carbon, and ultrafine particulate matter.

37 By June 30, 2026, the department of environmental protection shall install and operate
38 stationary air monitors in at least eight air pollution hotspots that measure for at least one of the
39 following pollutants: black carbon, nitrogen oxides, ultrafine particulate matter. By June 30,
40 2027, the department of environmental protection shall establish baseline air quality in air
41 pollution hotspots. Data from the air monitors shall be publicly accessible and provide near-time
42 information. The department of environmental protection shall work with residents of
43 environmental justice populations to conduct participatory action research where residents can
44 use mobile air sensors to expand the number of locations where residents can track air quality.

45 Once those hotspots are determined and the baseline data is established, the department
46 of environmental protection shall set annual targets to decrease air quality target pollutants
47 between 2026 and 2035 to improve the air quality in that location. Air monitoring data shall be
48 collected every three years between 2026 and 2035 to measure progress toward achieving air
49 quality target pollutants reduction targets and make such data publicly available. By December
50 31, 2030, the department of environmental protection shall ensure that air pollution hotspots will
51 have achieved air quality target pollutant concentrations that are at least 50 percent below the
52 baseline in each hotspot and certify as such by publicly reporting compliance. By December 31,
53 2035, the department of environmental protection shall ensure that air quality target pollutants
54 concentrations in hotspots are at least 75 percent below the baseline in each hotspot and certify
55 as such by publicly reporting compliance.

56 The department of environmental protection, in consultation with the department of
57 public health, shall promulgate regulations for conducting indoor/outdoor assessments
58 monitoring exposure to ultrafine particulate matter and black carbon particulate matter
59 concentrations present in the indoor air of existing and proposed buildings, based on the best
60 available science about the health risks associated with ultrafine particulate matter and black
61 carbon. The department of environmental protection’s regulations shall at minimum set forth
62 standard procedures for conducting air dispersion modeling, managing air pollution, monitoring
63 ultrafine particulate matter, and estimating exposure.

64 The provisions of this chapter may be enforced by means of an action in the superior
65 court seeking either injunctive relief, a declaratory judgment, a writ of mandamus or any
66 combination thereof. No such action may be commenced without the plaintiff providing written
67 notice of the violations of this chapter to defendants at least sixty (60) days prior to filing a legal
68 action in superior court. All persons shall have standing to commence such enforcement actions.
69 Reasonable attorneys’ fees shall be recoverable by all substantially prevailing plaintiffs who seek
70 relief under this section.

71 SECTION 3.

72 Section 26 of Chapter 111 shall be amended by adding the following section after the
73 first paragraph:

74 Boards of health shall require the installation of air filtration in eligible buildings located
75 within 200 meters of a class 1, class 2 or class 3 roadway, marine terminal, airport, or a train
76 station or train yard serving diesel locomotives. Eligible buildings include: (i) existing residential
77 public housing; (ii) existing residential private multifamily housing with more than two tenant-

78 occupied units; (iii) existing public schools serving students of any age in grades kindergarten
79 through twelfth grade; (iv) existing private schools serving students of any age in grades
80 kindergarten through twelfth grade; (v) existing charter schools serving students of any age in
81 grades kindergarten through twelfth grade; (vi) existing college and university buildings with one
82 or more classrooms; (vii) existing commercial buildings with businesses that have five or more
83 full-time employees; and (viii) existing correctional facilities, including prisons and jails. Boards
84 of health shall require that air filtration be maintained throughout the building operation.

85 The department of environmental protection, in consultation with the department of
86 public health, department of elementary and secondary education, and executive office of
87 administration and finance, shall identify funding sources to provide incentives for eligible
88 buildings that are schools, private housing, and public housing to cover the cost of installing air
89 filtration equipment.

90 Air filtration equipment installed in eligible buildings that are schools, commercial
91 buildings greater than 20,000 square feet, and residential buildings with more than 10 units shall
92 be MERV 16 or other equipment that removes at least the same amount of ultrafine particulate
93 matter as a MERV 16 filter.

94 SECTION 4.

95 Section 4A of chapter 15D of the General Laws, as so appearing, is hereby amended by
96 adding the following paragraph:

97 (e) The department of early education and care shall issue a new original license for a
98 school age child care program, day care center, family day care system, group care facility or
99 temporary shelter facility, family day care home or large family day care home which is not a

100 part of a family day care system, as defined in section 1A of chapter 15D of the General Laws,
101 only after the applicant has:

102 (1) carried out the indoor/outdoor assessment described in section 18B of chapter 21A of
103 the General Laws and the assessment results indicate the concentration of fine, ultrafine, and
104 black carbon particles in indoor air is or will be mitigated to at least 80 percent below outdoor air
105 concentrations; or

106 (2) installed a MERV 16 filter in mechanical ventilation system or standalone HEPA
107 filtration or acceptable mitigation to be determined by the department.

108 (f) No license shall be issued until acceptable mitigation has been installed and is
109 functioning.

110 SECTION 5.

111 Section 1A of chapter 40A of the General Laws, as so appearing is hereby amended by
112 inserting before the definition of “permit granting authority” the following definitions:

113 “construction” shall mean new construction or rehabilitation up to 50 percent of
114 assessed value.

115 “hospital” shall mean any institution in the Commonwealth of Massachusetts, however
116 named, whether conducted for charity or for profit, which is advertised, announced, established
117 or maintained for the purpose of caring for persons admitted thereto and staying overnight for
118 diagnosis or medical, surgical or restorative treatment which is rendered within said institution;
119 but shall not include clinics, day surgery centers, dialysis centers, or other such health care
120 facilities which do not admit patients overnight.

121 “long-term care facility” shall mean any institution whether conducted for charity or
122 profit which is advertised, announced or maintained for the express or implied purpose of
123 providing three or more individuals admitted thereto with long-term resident, nursing,
124 convalescent or rehabilitative care; supervision and care incident to old age for ambulatory
125 persons; or retirement home care for elderly persons. Long-term care facility shall include
126 convalescent or nursing homes, rest homes, and charitable homes for the aged.

127 “particulate matter mitigation” shall mean strategies, structural and nonstructural, that
128 verifiably reduce indoor ultrafine particle levels by 80 percent, relative to outdoor levels.

129 “publicly funded” shall mean any entity or institution which receives federal, state or
130 municipal monies, grants, and/or subsidies.

131 “publicly subsidized” shall mean any project receiving any form of direct funding, loan,
132 loan guarantee, tax credit, TIF funding, publicly bonded funds, or property tax incentives, issued
133 or granted by any public or quasi-public entity.

134 “school” shall mean any public or private institution primarily engaged in the education
135 of persons aged 18 years and younger. This definition does not include institutions of higher
136 education.

137 SECTION 6.

138 Section 94 of chapter 143 of the General Laws, as so appearing, is hereby amended by
139 inserting the following paragraphs after section (r):

140 (s) No permit granting authority shall grant a building permit for any proposed residential
141 development, hospital, school, long-term care facility, school aged child care program, day care

142 center, family day care home or large family day care home which is not a part of a family day
143 care system, family day care system, or group care facility or temporary shelter facility as
144 defined in section 1A of chapter 15D of the General Laws unless:

145 (a) the owner or applicant carries out an indoor/outdoor particulates assessment
146 consistent with the regulations adopted pursuant to section 18B of chapter 21A of the General
147 Laws, and the assessment results indicate that the concentration of ultrafine particulate matter
148 and black carbon is or will be mitigated to at least 80 percent below outdoor concentrations; or

149 (b) the owner or applicant has installed a MERV 16 filter in the building's mechanical
150 ventilation system.

151 SECTION 7.

152 Subsection a of section 6 of chapter 70B of the General Laws, as so appearing, is hereby
153 amended by inserting after subparagraph (6) the following paragraph:

154 (7) If the school project includes structures, apart from parking structures and accessory
155 structures, as defined in Section 21 of Chapter 17 of the General Laws or a train station or train
156 yard serving diesel locomotives, the applicant shall:

157 (a) carry out the indoor/outdoor particulates assessment described in section 18B of
158 chapter 21A of the General Laws and the assessment results indicate that the concentration of
159 ultrafine particulate matter and black carbon is or will be mitigated to at least 80 percent below
160 outdoor concentrations; or

161 (b) install a MERV 16 filter in the mechanical ventilation system or standalone HEPA
162 filtration or acceptable mitigation to be determined by the department.

163 SECTION 8.

164 Section 51 of Chapter 111 of the General Laws, as so appearing, is hereby amended by
165 inserting after the second paragraph the following paragraph:

166 No original license shall be issued to establish a hospital so as to place structures
167 inhabited by patients unless the developer:

168 (1) has carried out the indoor/outdoor particulates assessment described in section
169 18B of chapter 21A of the General Laws and the assessment results indicate that indoor ultrafine
170 particulate matter and black carbon levels are or will be mitigated to at least 80 percent below
171 that of outdoor levels. In the case of a facility previously licensed as a hospital in which there is
172 only a change in ownership, no such particulates assessment shall be required, in the absence of
173 expansions or new construction; or

174 (2) has installed a MERV 16 filter in the mechanical ventilation system or standalone
175 HEPA filtration or acceptable mitigation to be determined by the department.

176 SECTION 9.

177 Section 71 of Chapter 111 of the General Laws, as so appearing, is hereby amended by
178 inserting after the second paragraph the following paragraph:

179 No original license shall be issued to establish a convalescent or nursing home, rest
180 home or charitable home for the aged so as to place residential structures unless the developer:

181 (1) has carried out the particulates assessment described in section 18B of chapter
182 21A of the General Laws and the assessment results indicate indoor ultrafine particulate matter
183 and black carbon levels are or will be mitigated to at least 80 percent below those of outdoor

184 levels. In the case of a facility previously licensed in which there is only a change in ownership,
185 no such health risk assessment shall be required, in the absence of expansion or new
186 construction; or

187 (2) has installed a MERV 16 filter in the mechanical ventilation system or standalone
188 HEPA filtration or acceptable mitigation to be determined by the department.

189 SECTION 10.

190 Section 1 of chapter 111 of the General Laws is hereby amended by inserting the
191 following definitions:

192 “Indoor mold,” visible living or dead fungi or related products or parts, including
193 spores, hyphae, and mycotoxins, on an interior surface of a building, including common spaces,
194 utility spaces, HVAC, or other systems.

195 “Indoor mold assessment,” an indoor mold assessment conducted by an indoor mold
196 remediation professional.

197 “Indoor mold hazard,” indoor mold growth of ten square feet (10 ft.2) or more in an
198 affected area.

199 “Owner,” as provided in section 189A of chapter 111.

200 “Premises,” any residential premises, dwelling unit, or residential property.

201 SECTION 11.

202 Section 127A of chapter 111 shall be amended to add the following section after the
203 second paragraph:

204 Section 1.

205 (a) An owner leasing a premises shall notify tenants of the premises and prospective
206 tenants who are about to enter an agreement to rent the premises about the hazards of indoor
207 mold as follows:

208 (1) The department shall, by July 1, 2024, prepare a standard notification brochure
209 and such other materials as may be necessary to inform occupants and owners about the hazards
210 associated with indoor mold; measures which can be taken by occupants and owners to reduce
211 the risk of indoor mold; and tenants' rights and owners' obligations pursuant to sections 127A,
212 127B, and 127C of chapter 111, inclusive, and regulations promulgated thereunder. Such
213 materials shall also describe the need for tenants to promptly notify owners of the appearance of
214 indoor mold. The department shall produce these materials in multiple languages other than
215 English to accommodate the diverse multicultural population of Massachusetts.

216 (2) The department shall, by July 1, 2024, prepare a disclosure form for owners to
217 provide the following notice to tenants and prospective tenants:

218 (i) Prior violations of the State Sanitary Code involving indoor mold or moisture,
219 within the past three years; and

220 (ii) Current instances of indoor mold on the premises, of which the owner knows, or
221 has reasonable cause to believe exist.

222 (3) Effective August 1, 2025, prior to entering into a tenancy agreement, the owner of a
223 premises, or such other person to whom rent is to be regularly paid, shall provide any prospective

224 tenant who is about to enter such an agreement to rent the premises with, and the prospective
225 tenant shall sign prior to entering into a tenancy agreement:

226 (i) A copy of the materials specified in subsection (1);

227 (ii) A written disclosure on the form specified in subsection (2) regarding any existing
228 indoor mold on the premises, when the owner knows, or has reasonable cause to believe, that
229 such indoor mold is present.

230 (4) Effective August 1, 2025, prior to any renewal of an existing tenancy agreement, the
231 owner of premises, or such other person to whom rent is to be regularly paid, shall provide the
232 tenant with the materials specified in subsection (3).

233 (b) All persons selling a premises shall, prior to the signing of a purchase and sale
234 agreement, provide the prospective purchaser with the materials specified in subsection (3). The
235 prospective purchaser shall sign these materials prior to the signing of a purchase and sale
236 agreement. The department may adapt these materials as appropriate for the context of real estate
237 purchases.

238 Section 2. Inspection Requirements.

239 (a) Notwithstanding sections 3(b) and 4, an owner shall inspect or hire a third party to
240 inspect for indoor mold in all occupied premises and in common areas at least once a year
241 between the months of June and August and more often, if necessary, such as when, in the
242 exercise of reasonable care, an owner knows or should have known of a condition that is
243 reasonably foreseeable to cause indoor mold, or an occupant makes a complaint concerning a

244 condition that is likely to cause indoor mold or requests an inspection, or the department issues a
245 notice of violation or orders the correction of a violation that is likely to cause indoor mold.

246 (b) An owner who receives written or electronic notice from a tenant that indoor mold or
247 suspected indoor mold exists in the premises or in a common area of the property shall inspect
248 the property within five (5) calendar days.

249 (c) An owner who conducts or provides for an inspection under subsections (a) and (b)
250 within five (5) calendar days of such inspection shall:

251 (1) Provide written, in the form of paper or electronic, notice to the tenant that states:

252 (i) That the owner inspected the apartment for indoor mold; and

253 (ii) Whether the owner found indoor mold and, if so, whether the indoor mold constitutes
254 an indoor mold hazard.

255 (2) Report to the local board of health:

256 (i) The information specified under subsection (c)(1), provided the inspection is an
257 annual inspection required under subsection (a), or any other inspection where the inspection
258 reveals an indoor mold hazard.

259 (ii) The receipt of any written or electronic complaint from the tenant regarding indoor
260 mold or suspected indoor mold.

261 (d) Local boards of health will keep a record of, and make public, the information
262 received under subsection (c)(2) through a publicly accessible online database.

263 Section 3. Remediation Requirements.

264 (a) The presence of indoor mold in a leased premises constitutes a violation of the State
265 Sanitary Code. Owners of leased premises shall take reasonable measures to keep such premises
266 free from indoor mold and from any condition conducive to indoor mold and shall take
267 reasonable measures to prevent the reasonably foreseeable occurrence of such conditions and
268 shall expeditiously take reasonable measures to remediate such conditions and any underlying
269 defect, when such underlying defect exists, consistent with this section and the rules promulgated
270 thereunder.

271 (b) If an inspection or examination as provided for in section 3 or the State Sanitary Code
272 reveals the presence of indoor mold, the owner shall:

273 (1) Cause the indoor mold to be remediated in accordance with subsections (c) or (d), as
274 applicable;

275 (2) Begin necessary remediation or contract in writing with a third party within five (5)
276 days of the inspection provided for in section 3 or receiving notice of a violation pursuant to the
277 State Sanitary Code, unless a shorter timeframe is ordered by the local board of health; and

278 (3) Make a good faith effort to substantially correct all violations within thirty (30) days
279 of the inspection provided for in section 3 or receiving notice of a violation pursuant to the State
280 Sanitary Code, unless a shorter timeframe is ordered by a local board of health.

281 (c) If remediation of indoor mold is required under subsection (b) and the indoor mold is
282 not an indoor mold hazard, the owner shall:

283 (1) Remediate the indoor mold in accordance with the guidelines established under
284 subsection (e)(2); and

285 (2) Within five (5) days of the completed remediation of the indoor mold:

286 (i) Provide written or electronic notice to the tenant stating that the indoor mold is
287 remediated; and

288 (ii) Report to the local board of health that the indoor mold is remediated. Local boards of
289 health will keep a record of, and make public, this report.

290 (d) If remediation of indoor mold is required under subsection (b) and the indoor mold is
291 an indoor mold hazard, the owner shall:

292 (1) Cause an indoor mold remediation professional to remediate the indoor mold hazard.
293 The indoor mold remediation professional shall remediate the indoor mold hazard in accordance
294 with the performance standards and work practices established under subsection (e)(1); and

295 (2) Within five (5) days of the completed remediation of the indoor mold:

296 (i) Provide written or electronic notice to the tenant stating that the indoor mold is
297 remediated; and

298 (ii) Inform the local board of health of the violation and request an inspection following
299 the remediation, provided that the local board of health is not aware of the violation and does not
300 plan to conduct a follow-up inspection pursuant to the State Sanitary Code. Local boards of
301 health will keep a record of, and make public, this report, through a publicly accessible online
302 database.

303 (e) Consistent with applicable U.S. Environmental Protection Agency or U.S.
304 Department of Labor, Occupational Safety and Health Administration guidelines and regulations

305 relating to the assessment and remediation of mold, within one year of the effective date the
306 department shall:

307 (1) Establish minimum performance standards and work practices for conducting
308 professional indoor mold remediation in Massachusetts, including the use of a moisture meter
309 before and following remediation to ensure that moisture levels for building materials are at
310 appropriate levels as determined by the department.

311 (2) Establish guidelines for the safe and effective remediation of indoor mold that is not
312 an indoor mold hazard. At a minimum, these guidelines shall require an owner to:

313 (i) Investigate and correct any underlying defect, including moisture or leak conditions,
314 that are causing or may cause mold violations;

315 (ii) Remove or securely cover with plastic sheeting any furniture or other items in the
316 work area that cannot be removed;

317 (iii) Minimize the dispersion of dust and debris from the work area to other parts of the
318 dwelling unit through methods such as: sealing ventilation ducts/grills and other openings in the
319 work area with plastic sheeting; isolating the work area with plastic sheeting and covering egress
320 pathways; cleaning or gently misting surfaces with a dilute soap or detergent solution prior to
321 removal; the use of HEPA vacuum-shrouded tools or a vacuum equipped with a HEPA filter at
322 the point of dust generation;

323 (iv) Clean mold with soap or detergent and water;

324 (v) Remove and discard materials that cannot be cleaned properly;

- 325 (vi) Properly remove and discard plastic sheeting, cleaning implements, and
326 contaminated materials in sealed, heavy weight plastic bags;
- 327 (vii) Clean any remaining visible dust from the work area using wet cleaning methods or
328 HEPA vacuuming; and
- 329 (viii) Leave the work area dry and visibly free from mold, dust, and debris.
- 330 (f) Failure of the department to issue minimum performance standards, work practices,
331 and guidelines shall not excuse an owner from the remediation requirements under this section.
- 332 (g) If mold remediation required under subsection (b) results in the premises being
333 uninhabitable, the owner shall pay for the cost of a hotel or other reasonable alternative housing
334 arrangement during the mold remediation for each 24-hour period for which the premises is
335 uninhabitable.

336 Section 4. Fines.

337 (a) An owner who violates any provision of this section, or the rules promulgated
338 thereunder, shall be punishable by fine as follows:

339 (1) By a fine of not less than \$250 nor more than \$500 for each violation of section 2,
340 section 3, and section 4(b), 4(c), and 4(d).

341 (2) If remediation is not completed within the required timeframe under section 4(b),
342 each subsequent day until remediation is completed constitutes a separate violation under
343 subsection (a)(1).

344 Section 5. Indoor Mold Assessment and Remediation Fund.

345 (a) There is established the Indoor Mold Assessment Fund, which shall be administered
346 by the department in accordance with subsection (c) of this section.

347 (b) The Fund shall consist of the revenue from: fees collected in accordance with
348 subsection (d) of section 4; fines collected in accordance with section 6; and any other money
349 accepted for the benefit of the Fund.

350 (c) The Fund shall be used to meet the department's education and research support
351 obligations under section 6; and to provide financial assistance grants to low-income residents
352 for the purpose of having a professional mold assessment conducted in their premises in the
353 event that the owner fails to comply with the requirements in sections 2 through 4 or for small
354 property owners of buildings up to nine units for the purpose of covering mold assessments and
355 inspections.

356 Section 6. Education and Research Support.

357 (a) The department shall create educational materials and guidance to support owners in
358 meeting their obligations under sections 2 through 4.

359 (b) The department shall promulgate a comprehensive written procedure to guide local
360 boards of health and code enforcement agencies in implementing and enforcing sections 2
361 through 7.

362 (c) The department shall institute an educational and publicity program, to inform the
363 general public, and particularly owners, tenants, local boards of health and code enforcement
364 agencies, and health services personnel, of: the dangers of mold; the causes of mold and how to

365 identify these causes; occupant behaviors that can contribute to indoor mold growth; and
366 methods for preventing and remediating mold growth.

367 (d) The department shall prioritize the use of available funding sources to fund research
368 focused on the health impacts of mold and strategies for mitigating mold.

369 (e) The department shall seek comments from time to time from residents of
370 environmental justice populations as defined by section 62 of chapter 30 of the general laws
371 regarding mold and air quality concerns.

372 Section 7. Violations/Remedies for Injured Tenants.

373 (a) In a private cause of action, claim, or defense by a tenant against an owner for a
374 violation under this Section:

375 (1) A professional indoor mold assessment finding indoor mold contamination in a
376 leased premises or a common area of the property shall create a rebuttable presumption of a
377 violation of the owner's obligation to maintain the premises as required under this Section and
378 the State Sanitary Code. To establish the presumption, the tenant must demonstrate that the
379 owner received a professional indoor mold assessment in written or electronic form that
380 determined that indoor mold contamination existed in the tenant's leased premises.

381 (2) When ruling in favor of a tenant with respect to a violation of this Section or the
382 State Sanitary Code based on a professional indoor mold assessment, the court shall have
383 discretion to reimburse indoor mold assessment costs and award attorney fees and court costs to
384 the tenant. The court may award treble damages to a tenant when:

385 (i) The tenant discovered the indoor mold;

386 (ii) A professional indoor mold assessment determined that indoor mold contamination
387 existed in the tenant's premises;

388 (iii) The owner received the indoor mold assessment in written or electronic form;

389 (iv) The owner did not remediate the indoor mold within the timeline required under
390 section 4; and

391 (v) The court finds that the residential property owner acted in bad faith.

392 (b) The housing court department established pursuant to section 1 of chapter 211B shall
393 establish a dedicated process to handle claims involving a violation of this Section or violation of
394 the State Sanitary Code involving mold. This process shall include the opportunity for mediation
395 prior to a hearing.

396 SECTION 12.

397 (1) Notwithstanding any special or general law, rule or regulation to the contrary the
398 board of building regulations and standards shall, commencing with the next edition of the
399 International Energy Conservation Code adopted after January 1, 2022 under section 94 of
400 chapter 143 of the General Laws, adopt, approve, codify, and publish mandatory building
401 standards:

402 (a) for mandatory building standards for the installation of air filtration systems at a
403 minimum of MERV 16; and

404 (b) do not permit the installation of gas stoves for use in residential construction.

405 (2) In proposing and adopting standards and regulations under this section, the Board of
406 Building Regulations and Standards shall actively consult with interested parties, including, but
407 not limited to, the Department of Public Health and the Department of Energy Resources.