

HOUSE No. 3323

The Commonwealth of Massachusetts

PRESENTED BY:

Jessica Ann Giannino

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 liquid or gas flammable material spills on public ways.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Jessica Ann Giannino</i>	<i>16th Suffolk</i>	<i>1/13/2023</i>

HOUSE No. 3323

By Representative Giannino of Revere, a petition (accompanied by bill, House, No. 3323) of Jessica Ann Giannino relative to liquid or gas flammable material spills on public ways. Transportation.

The Commonwealth of Massachusetts

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

An Act relative to liquid or gas flammable material spills on public ways.

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 85 of the General Laws, as appearing in the 2020 Official Edition,
2 is hereby amended by adding the following section:-

3 Section 38. (a) Any person who in the operation of a commercial motor vehicle or trailer
4 used to deliver gasoline, oil or other flammable material who discharges or spills gasoline, oil or
5 other flammable material into or onto surface water or groundwater or in a land area where the
6 gasoline, oil or other flammable material will ultimately seep into such waters or any person who
7 violates any provision of this section or any rule adopted under the provisions of this section
8 shall be subject to a civil penalty not to exceed \$20,000 for each violation. Each day of a
9 continuing violation shall count as a separate violation. Civil penalties for violation adopted
10 under this section shall not accrue until the highway division of the Massachusetts Department of
11 Transportation provides notification of such violation. The attorney general may bring an action
12 for injunctive relief including a mandatory injunction.

13 (b) Said penalty shall be in addition to liability for costs incurred by the commonwealth
14 or any municipality thereof for the cleaning and removal of the spill. The superior court
15 department of the trial court shall have jurisdiction to enforce the provisions of this section. Any
16 civil penalty imposed under the provisions of this section shall be paid over to the treasury of the
17 municipality wherein the spill took place.

18 SECTION 2. Chapter 90 of the General Laws, as so appearing, is hereby amended by
19 adding the following section:-

20 Section 64. (1) The department, as defined in section 1, shall set a schedule for surety
21 bonds to be required from any commercial motor vehicle or trailer company that delivers
22 gasoline, oil or other flammable material and any product suppliers or dealers of gasoline, oil or
23 other flammable material to provide for emergency cleanup and provide for the protection of the
24 environment from accidental intrusions and from purposeful evasion of any law, rule or
25 regulation adopted under chapter 21E.

26 (2) The surety bonds shall compensate municipalities as obligee of such surety for the
27 short and long-term remediation of a spill of gasoline, oil or other flammable material in excess
28 of 100 gallons.

29 SECTION 3. Notwithstanding any special or general law to the contrary, the division of
30 highways of the Massachusetts Department of Transportation shall conduct a study of spills
31 involving gasoline, oil or other flammable material by commercial motor vehicles or trailers on
32 public ways. The study shall include, but not be limited to:

33 (i) the costs and benefits of companies paying drivers of commercial motor vehicles or
34 trailers an hourly wage versus being paid per load;

35 (ii) analysis comparing accidents by drivers of commercial motor vehicles or trailers, that
36 lead to spills, who are paid an hourly wage versus drivers being paid per load;

37 (iii) analysis of possible increase speeds by drivers of commercial motor vehicles or
38 trailers who are paid per load compared to drivers paid an hourly wage;

39 (iv) effects on drivers of commercial motor vehicles or trailers delivering gasoline, oil or
40 other flammable material after spills and if they are more likely to cause a spill in the future;

41 (v) impacts spills of gasoline, oil or other flammable material have on road safety;

42 (vi) the long term effect gasoline, oil or other flammable material spills have on the local
43 ecosystem and financial costs to cities and town to repair damages after cleanup of the spill; and

44 (vii) methods to prevent and mitigate spills of gasoline, oil or other flammable material
45 on public ways.

46 The division shall file a report of the study and any recommended legislation with the
47 clerks of the house of representatives and the senate and the chairs of the joint committee on
48 transportation, no later than 1 year after passage of this act.