

HOUSE No. 3325

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia A. Duffy

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 create the buy clean Massachusetts program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>1/17/2025</i>

HOUSE No. 3325

By Representative Duffy of Holyoke, a petition (accompanied by bill, House, No. 3325) of Patricia A. Duffy relative to construction contracts. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act to create the buy clean Massachusetts program.

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. Definitions.

2 Section 1. As used in this chapter, the following words shall have the following meanings
3 unless the context clearly requires otherwise:

4 "Actual production facilities", the final manufacturing facility and the facilities at which
5 production processes occur that contribute to 70 percent or more of the product's cradle-to-gate
6 global warming potential, as reflected in the environmental product declaration.

7 "Awarding authority", state or local institution or department authorized to issue bids and
8 contracts on the Commonwealth's behalf including:

9 (i) Public institutions of higher education;

10 (ii) The division of capital asset management and maintenance through the operational
11 services division;

- 12 (iii) The executive office of transportation;
- 13 (iv) Municipal governments and departments; and
- 14 (v) Any other state government agency that receives funding from the Commonwealth for
15 a public works project contracted directly by the state agency.

16 "Covered product", construction materials under the purview of this act, including:

17 (i) Structural concrete products, including ready mix, shotcrete, precast, and concrete
18 masonry units;

19 (ii) Reinforcing steel products, specifically rebar and posttensioning tendons;

20 (iii) Structural steel products, specifically hot rolled sections, hollow sections, metal
21 deck, and plate; and

22 (iv) Engineered wood products, such as cross-laminated timber per ANSI form no. PRG
23 320, glulam beams, laminated veneer lumber, parallel strand lumber, dowel laminated timber,
24 nail laminated timber, glulam laminated timber, prefabricated wood joists per ASTM D5055,
25 wood structural panel per product standard 1 or product standard 2, solid sawn lumber per
26 product standard 20, structural composite lumber per ASTM D5456, and structural sawn lumber.

27 (a) For the purposes of this subsection:

28 "ANSI", the American national standards institute.

29 "ASTM", the American society for testing and materials.

30 "Product standard", a voluntary product standard published by the United States
31 department of commerce national institute of standards and technology.

32 "Covered project", projects that are subject to this act including:

33 (i) A construction project larger than 50,000 gross square feet in completion;

34 (ii) A building renovation project where the cost is greater than 50 percent of the assessed
35 value and the project is larger than 50,000 gross square feet of occupied or conditioned space; or

36 (iii) A transportation infrastructure project where the contract is greater than \$3,000,000
37 which include a concrete pay item with estimated quantity of at least 200 cubic yards.

38 "Division", the division of capital asset management and maintenance.

39 "Environmental product declaration", a type III environmental product declaration, as
40 defined by the international organization for standardization standard 14025 or similarly robust
41 life-cycle assessment methods that have uniform standards in data collection consistent with the
42 international organization for standardization standard 14025, industry acceptance, and integrity.

43 When available, the environmental product declaration must be supply chain specific,
44 and shall reflect an environmental product declaration that includes supply chain specific data for
45 production processes that contribute 70 percent or more of a product's cradle-to-gate global
46 warming potential, as defined in international organization for standardization standard 21930,
47 and reports the overall percentage of supply chain specific data included.

48 "Greenhouse gas", any chemical or physical substance that is emitted into the air and that
49 may reasonably be anticipated to cause or contribute to climate change including, but not limited

50 to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur
51 hexafluoride.

52 "Health product declaration", a supply chain specific health product declaration, as
53 defined by the health product declaration open standard maintained by the health product
54 declaration collaborative, that has robust methods for product manufacturers and their ingredient
55 suppliers to uniformly report and disclose information about product contents and associated
56 health information.

57 "Lower-Carbon", materials with low embodied energy and carbon emissions throughout
58 their production, assembly, and transportation when compared to conventional products,
59 assembly or transportation.

60 "Product and facility specific report", an environmental product declaration whereby the
61 environmental impacts can be attributed to a single manufacturer and a specific manufacturing or
62 production facility.

63 SECTION 2. (1)(a) Beginning July 1, 2027, an awarding authority must require in all
64 newly executed construction contracts that the selected firm for a construction contract for a
65 covered project larger than 100,000 gross square feet submit to the division the following data
66 for each covered product used before substantial completion, including at a minimum:

67 (i) Product quantity;

68 (ii) A current environmental product declaration;

69 (iii) Health product declaration, if any, completed for the product;

70 (iv) Manufacturer name and location, including state or province and country; and

71 (v) Office of minority and women-owned business enterprises certification, if any.

72 (b) Beginning July 1, 2029, an awarding authority must require in all newly executed
73 construction contracts that the selected firm for a construction contract for a covered project
74 submit the data required by (a) of this subsection for each covered product used before
75 substantial completion. All data shall be shared with the division at the time of submittal.

76 (c) The selected firm for a contract for a covered project shall provide the data required
77 by this subsection for at least 90 percent of the cost of each of the covered products used in the
78 project.

79 (2) The selected firm for a contract for a covered project is required to collect and submit
80 from product suppliers the information required in subsection (1)(a)(ii) through (vi) of this
81 section. The selected firm is not required to verify the information received from product
82 suppliers.

83 (3) If a supply chain specific environmental product declaration is not available, a
84 product and facility specific report may be submitted.

85 (4) This section does not apply to a covered product for a particular covered project if the
86 awarding authority determines, upon written justification provided to the division, that the
87 requirements in this section would cause a significant delay in completion, significant increase in
88 overall project cost, or result in only one product supplier being able to provide the covered
89 product.

90 (5) An awarding authority must include the information and reporting requirements in
91 this section in a specification for bids for a covered project.

92 (6) Subject to funds appropriated for this specific purpose, the division may provide
93 financial assistance to small businesses, as allocated by the Legislature, to help offset the costs to
94 the small business of producing an environmental product declaration required under this
95 section. Such financial assistance supports the production of environmental product declarations
96 and achievement of reductions of embodied carbon in the built environment while ensuring that
97 small manufacturers are not put at a competitive disadvantage in state contracting as a result of
98 the requirements of this chapter.

99 SECTION 3. By July 1, 2027, and to the extent practicable, specifications for a bid or
100 proposal for a project contract by an awarding authority may only include performance-based
101 specifications for concrete used as a structural material. Awarding authorities may continue to
102 use prescriptive specifications on structural elements to support special designs and emerging
103 technology implementation.

104 SECTION 4. (1) The division must develop, maintain, and refine a publicly accessible
105 database after July 1, 2029 for selected firms for contracts for covered projects to submit the data
106 required in section 3 of this act to the division and to promote transparency. The division may
107 seek specific state funding for this purpose.

108 (2) The database maintained pursuant to subsection (1) of this section must publish global
109 warming potential as reported in the environmental product declarations.

110 (3) By July 1, 2027, the division must:

111 (i) Further elaborate covered product definitions using applicable material industry
112 standards;

113 (ii) Develop measurement and reporting standards to ensure that data is consistent and
114 comparable, including standards for reporting product quantities;

115 (iii) Create model language for specifications, bid documents, and contracts to support
116 the implementation of section 3 of this act; and

117 (iv) Produce an educational brief that:

118 (a) Provides an overview of embodied carbon;

119 (b) Describes the appropriate use of environmental product declarations, including the
120 necessary preconditions for environmental product declarations to be comparable;

121 (c) Outlines reporting standards, including covered product definitions, standards for
122 reporting product quantities, and working conditions;

123 (d) Describes the data collection and reporting process for all information required in
124 section 3 of this act;

125 (e) Provides instructions for the use of the database; and

126 (f) Lists applicable product category rules for covered products.

127 (4) The division may contract for the use of nationally or internationally recognized
128 databases of environmental product declarations for purposes of implementing this section.

129 SECTION 5.

130 (1) By December 1, 2026, the division must convene a technical work group that includes
131 the following representatives:

- 132 (i) Two designees chosen by the Massachusetts chapter of the American Institute of
133 Architects with expertise in the fields of public design, structural design, or specification;
- 134 (ii) Two designees chosen by Construction Industries of Massachusetts with experience
135 in public construction;
- 136 (iii) Two representatives each from Massachusetts manufacturers of each of the
137 following, with the stipulation that each product category include one conventional and one
138 lower-carbon supplier where practicable:
- 139 (a) Steel;
- 140 (b) Wood; and
- 141 (c) Concrete;
- 142 (iv) Two designees from the division of capital asset management and maintenance, as
143 chosen by the Secretary;
- 144 (v) Two designees from the department of transportation, as chosen by the Secretary;
- 145 (vi) One designee from the executive office of energy and environmental affairs, as
146 chosen by the Secretary;
- 147 (vii) The assistant secretary for operational services in the operational services division,
148 or their designee;
- 149 (viii) Two designees from two environmental groups that focus on embodied carbon and
150 climate change, as recommended by the secretary of energy and environmental affairs;

151 (ix) A representative from the minority and women-owned business community with
152 experience in public construction projects, as designated by the division of capital asset
153 management and maintenance; and

154 (x) Representatives of other agencies and independent experts as necessary to meet the
155 objectives of the technical work group as described in this section.

156 The Secretary of the executive office for administration and finance or their designee
157 shall function as the chairperson.

158 (2) The division intends formation of subgroups with technical work group members who
159 have subject matter expertise or industry experience to develop technical information,
160 recommendations, and analysis specific to individual material types, and the feasibility of supply
161 chain specific environmental product declarations. The recommendations must, where possible,
162 align with state and national principles and laws for environmental product declaration
163 development.

164 (3) The purpose of the technical work group is to identify opportunities for and barriers to
165 growth of the use and production of lower-carbon materials, promote high labor standards in
166 manufacturing, and preserve and expand lower-carbon materials manufacturing in
167 Massachusetts. The group shall also make recommendations for the implementation of the use of
168 lower-carbon materials in all future public projects, including but not limited to aligning
169 specifications of future covered projects, incentives for the use of lower-carbon materials and
170 necessary changes to Commonwealth purchasing procedures.

171 (4) By September 1, 2027, the technical work group must submit a report to the
172 legislature and the governor that includes:

173 (i) A lower-carbon materials manufacturing plan that recommends policies to preserve
174 and grow the in-state manufacturing of lower-carbon materials and accelerate industrial
175 decarbonization. For this plan, the technical work group must:

176 (a) Examine barriers and opportunities to maintain and grow a robust in-state supply of
177 lower-carbon building materials including, but not limited to, state and domestic supply of raw
178 materials and other supply chain challenges, regulatory barriers, competitiveness of local and
179 domestic manufacturers, cost, and data availability from local, state, national, and foreign
180 product suppliers; and

181 (b) Identify opportunities to encourage the continued conversion to lower-carbon
182 cements, including the use of performance-based specifications and allowing Type 1-L cement in
183 specifications for public projects.

184 (ii) Recommendations for consistent treatment in the reporting for covered products; and

185 (iii) Consideration of how additional information relevant to reducing embodied carbon
186 through strategies including, but not limited to, product life-cycle assessments could be
187 incorporated into future reporting.

188 (5)(a) By September 1, 2028, the technical work group must submit a report on policy
189 recommendations, including any statutory changes needed, to the legislature and the governor.
190 The report must consider policies to expand the use and production of lower-carbon materials,
191 preserve and expand lower-carbon materials manufacturing in Massachusetts, including
192 opportunities to encourage continued conversion to lower-carbon blended cements in public
193 projects, and recommend ways to incorporate lower-carbon materials into public construction
194 projects.

195 (b) For this report, the technical work group must:

196 (i) Summarize data collected pursuant to section 3 of this act, including product
197 quantities, global warming potential, health product declarations, and any obstacles to the
198 implementation of this chapter;

199 (ii) Make recommendations for improving environmental production declaration data
200 quality including, but not limited to, integrating reporting on variability in facility, product, and
201 upstream data for key processes;

202 (iii) Make recommendations, if any, for changing or clarifying the definition of "actual
203 production facilities" in section 2 of this act to better define and refine reporting and compliance
204 obligations;

205 (iv) Identify barriers and opportunities to the effective use of the database maintained
206 under section 5 of this act and the data collected pursuant to this chapter;

207 (vi) Identify emerging and foreseeable trends in local, state, federal, and private policy on
208 embodied carbon and the procurement and use of lower-carbon materials and opportunities to
209 promote consistency across public and private embodied carbon and lower-carbon materials
210 policies, rules, and regulations; and

211 (vii) Recommend approaches to designing lower-carbon state building projects.

212 (6)(a) The division may update reporting standards and requirements based on input from
213 the technical work group.

214 (b) The division must provide updated guidance on reporting standards by January 1,
215 2029.

216 (7) This section expires January 1, 2030.

217 SECTION 6.

218 (1) Awarding authorities in the Commonwealth are hereby directed to include in pre-bid
219 specification documents instructions beginning no later than January 1, 2030 specific goals for
220 use of lower-carbon products in all major capital construction projects valued over \$10,000,000
221 that are required to complete a predesign.

222 (a) The recommendations for use of lower-carbon products shall reflect the
223 recommendations of the technical work group created in Section 6, and shall meet the goals of
224 the Massachusetts Clean Energy and Climate Plan for 2050, as published on December 21, 2022.

225 (b) The operational services division shall provide technical assistance to municipalities
226 and counties on implementation of these goals.

227 (2) For proposed capital projects identified in this subsection that are requesting state
228 funding:

229 (i) Whether there was regional coordination during project development;

230 (ii) Whether local and additional funds were leveraged;

231 (iii) The financial impact of using lower-carbon materials in the project; and

232 (iv) Whether environmental outcomes and the reduction of adverse environmental
233 impacts were examined.

234 (3) For projects subject to subsection (1) of this section, the operational services division
235 shall request the required information be provided during the predesign process of major capital
236 construction projects to reduce long-term costs and increase process efficiency.

237 (5) The executive office of administration and finance, in the completion of capital
238 budget and investment plans, must take into account information gathered under subsections (1)
239 and (2) of this section in an effort to promote state capital facility expenditures that minimize
240 unplanned or uncoordinated infrastructure and development costs, support economic and quality
241 of life benefits for existing communities, and support local government planning efforts.

242 SECTION 7. This act shall be known and cited as the buy clean Massachusetts act.

243 SECTION 8. If any provision of this act or its application to any person or circumstance
244 is held invalid, the remainder of the act or the application of the provision to other persons or
245 circumstances is not affected.