SENATE DOCKET, NO. 173 FILED ON: 1/9/2025

SENATE . . . . . No. 542

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 ensure the health and safety of the commonwealth's students and educators.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Bruce E. Tarr	*First Essex and Middlesex*

SENATE DOCKET, NO. 173 FILED ON: 1/9/2025

SENATE . . . . . No. 542

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 542) of Bruce E. Tarr for legislation to ensure the health and safety of the commonwealth's students and educators. Emergency Preparedness and Management.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *223* OF 2023-2024.]

The Commonwealth of Massachusetts

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

An Act to ensure the health and safety of the commonwealth's students and educators.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 149 of the General Laws as appearing in the 2022 edition is hereby amended by inserting after section 117, the following section:-

Section 117A: Ventilation in Schools

a. Definitions

As used in this section, the following words shall, unless a different meaning clearly appears from the context, have the following meanings:-

"Advanced technologies" means Ultraviolet Germicidal Irradiation (UVGI) or Bipolar ionization or other processes or devices for deactivating [airborne] viruses or [airborne] virus particles or other airborne agents of disease.

10 "ASHRAE Standard 170" means ANSI/ASHRAE/ASHE Standard 170, Ventilation of
11 Health Care Facilities.

12 "Air changes per hour" means a measure of the fresh air volume added to or removed
13 from a space in one hour, calculated by dividing the outdoor air supply volume in cubic feet per
14 hour by the volume in cubic feet of the occupied space; provided, however, that said calculation
15 may include filtered air as part of the outdoor air supply volume in an amount consistent with the
16 efficiency rating of the filters used to condition the air.

17 "Declaration of a pandemic" means the characterization by the World Health
18 Organization of an infectious disease outbreak as a pandemic; or a declaration related to an
19 infectious disease outbreak by the federal Department of Health and Human Services of a public
20 health emergency in accordance with section 319 of the Public Health Service Act (42 U.S.C.
21 247d); or a declaration of a state of emergency related to an infectious disease outbreak by the
22 Governor of the Commonwealth in accordance with Chapter 639 of the Acts of 1950 and Section
23 2A of Chapter 17 of the General Laws.

24 "Department" means the Department of Labor Standards.

25 "Employee organization" means any lawful association, organization, federation, council,
26 or labor union as defined in section 1 of chapter 150E of the General Laws.

27 "Filtered air" means air that has been a) conditioned induct, in air handling units, or in
28 other components of a ventilation system, by filters with a MERV-13 or higher efficiency rating,
29 or b) conditioned by a portable air cleaner.

30 "Fresh air" means outdoor air free of outdoor air pollutants, or a combination of such
31 outdoor air and filtered air

32 Local education authority for the purpose of this section 117A means a public authority
33 legally constituted by the state as an administrative agency to provide control of and direction for
34 pre-kindergarten through grade 12 public educational institutions or the owners or operators of a
35 private educational institution approved by a school committee in accordance with section 1 of
36 chapter 76.

37 "Occupied space" means, unless otherwise specified, any area in a school building used
38 for educational, administrative, medical, toileting, or any purpose other than storage.

39 "Outdoor air" means air introduced from outside a school building from intakes free of
40 contaminated air.

41 "Personal protective equipment" means equipment worn to minimize exposure to hazards
42 from infectious disease, including, but not limited to, gloves, face shields, masks, safety glasses,
43 respirators, coveralls, or full body suits.

44 "Portable air cleaner" means a portable high-efficiency particulate air (HEPA)
45 fan/filtration device or system with an appropriate clean air delivery rate.

46 "Relative humidity" means the amount of water vapor present in air expressed as a
47 percentage of the amount needed for saturation at the same temperature.

48 "School building" means any structure used for educating pupils by a local educational
49 authority

50 This section means Chapter 149 section 117A

51 "Ventilation" means the supply of fresh air, heat, and air conditioning (if available) to
52 occupied space and the simultaneous removal by an exhaust system of air from an occupied
53 space

54 "Ventilation system" means the building system and its component parts dedicated to
55 ventilation

56 b. The Department shall, no later than 9 months after effective date of this section, in
57 consultation with and with guidance from the Occupational Health and Safety Hazard Advisory
58 Committee as described in section 6 ½ (c) of chapter 149, promulgate regulations related to
59 school building ventilation consistent with sections c through f below.

60 c. Ventilation Requirements

61 1) Except as otherwise indicated in section c (2), as soon as practicable but no later than
62 two years after the effective date of this section ventilation systems in school buildings must
63 provide ventilation to all occupied spaces, that meets at least one of the following measures:

64 a) A minimum of 4 air changes per hour of fresh air

65 b) A minimum of 20 cubic feet per minute of outdoor air per person

66 c) A maximum of 800 parts per million of carbon dioxide

67 2) The ventilation systems of bathrooms in school buildings must comply with the
68 current Massachusetts Building Code.

69 3) Ventilation systems in school buildings must maintain temperatures in occupied spaces
70 between 66 degrees Fahrenheit and 78 degrees Fahrenheit.

71 d. Pandemic requirements

72 In the event of the declaration of a pandemic, school buildings must meet the following
73 measures:

74 1) the ventilation system must provide sufficient ventilation to all occupied spaces except
75 those specified in sections a) and b) below, to reduce the risk of airborne transmission of disease
76 by 95%, through the use of fresh air, portable air cleaners, or advanced technologies; provided,
77 however, that the following areas must meet additional requirements:

78 a) the ventilation system in nurses' offices and designated medical waiting areas must
79 comply with ASHRAE Standard 170

80 b) bathrooms must have working exhaust systems capable of maintaining negative air
81 pressure relative to the rest of the school building; exhaust systems must run constantly

82 2) the relative humidity shall be maintained at between 40% and 60%

83 3) school buildings must provide sufficient disinfectants, cleaning and handwashing
84 areas, and personal protective equipment to comply with best practices as defined by guidance
85 from governmental public health entities, public health research institutions, or occupational
86 health research institutions

87 e. Testing, adjustment and balancing

88 Local education authorities shall ensure that ventilation systems in all school buildings
89 meet and continue to meet the requirements in sections c and d above by completing the
90 following activities:

91 1) Conduct testing, adjustments, balancing, and repairs, which shall consist of

92 a) an assessment of the ventilation system in each school building to determine if each
93 school building meets the requirements of sections b and c above, including but not limited to
94 measuring outdoor supply air volume, total supply air volume, exhaust air

95 volume, the volume of all occupied spaces, and calculating air changes per hour in each
96 occupied space, and including providing an inventory of personal protective equipment currently
97 available for use in each school building. This will be completed as soon as practicable but no
98 later than 18 months after the effective date of this section.

99 b) The entity performing the assessment described in section (e)(1)(a) above shall issue a
100 report of the results of the assessment, including the methods used, and results of the
101 measurements and calculation of air changes per hour.

102 c) The report described in section (e)(1)(b) shall be a public record as defined in section
103 10(a) of Chapter 66 and section 7, part 26 of Chapter 4, and shall be posted on the website for
104 each school building or local education authority, and on the Department's website and on the
105 website of the Department of Elementary and Secondary Education no later than 30 days after
106 completion of the assessment.

107 d) If, after assessment, occupied spaces in school buildings are determined not to meet
108 the requirements of sections c and d above, by 9 months after completion of first assessment
109 local education authorities must complete adjustments, repairs or upgrades, and balancing
110 sufficient to meet the requirements of section d above, and must conduct a post-remediation
111 assessment in accordance in sections (e)(1)(a-c) above to confirm that ventilation requirements
112 are being met and that supplies of materials described in section d (3) are adequate.

113 e) Reports documenting the repairs and upgrades made, and the confirmation through
114 assessments that the requirements of sections d above have been met shall be public records, and
115 shall be posted on the website for each school building or local education authority, and on the
116 websites of the Department of Labor Standards and the Department of Elementary and
117 Secondary Education no later than 30 days after completion.

118 2) Local education authorities shall conduct assessments that include testing, adjustments
119 and balancing as described in section (e)(1) above no less frequently than every 2 years

120 f. Enforcement

121 1) An employee or employee organization aggrieved by a violation of this section 117A
122 may file a complaint with the Department, which shall conduct an investigation and issue
123 preliminary findings and orders within 30 days of receiving the complaint. The Department shall
124 have authority to order the local education authority to make repairs or upgrades to come into
125 compliance with this section.

126 2) If the Department has not completed its investigation and issued preliminary findings
127 and orders within 30 days, or if the Department has completed its investigation and issued
128 preliminary findings and orders and the employee or employee organization is still aggrieved, the
129 aggrieved employee or employee organization may, within 3 years after the violation, institute
130 and prosecute in his/her/its own name and on his/her/its own behalf, a civil action for injunctive
131 relief, for an order for repairs or upgrades, for any damages incurred, and for any lost wages and
132 other benefits. An employee or employee organization so aggrieved who prevails in such an
133 action shall be awarded the costs of the litigation and reasonable attorneys' fees.

134 SECTION 2. The second paragraph of section 150 of Chapter 149 is amended to insert
135 after the word “sections” the following words: “6 ½, 18A,” and after the word “52E” the
136 following words: “113, 117, [117A].

137 SECTION 3. The Massachusetts School Building Authority, in consultation with the
138 advisory board established pursuant to section 3A of chapter 70B of the General Laws, shall

139 a) create a temporary category of major reconstruction project, as defined in section 2 of
140 chapter 70B, to be used for the upgrade or repair of ventilation systems in public school
141 buildings as required by section 117A of chapter 149. The new category of major reconstruction
142 project shall be available to public school districts for period of time of 3 years from effective
143 date of legislation. The School Building Authority shall consider all applications for funding
144 under the new category of major reconstruction project to be applications for projects described
145 in section 8 (1) of chapter 70B.

146 b) by 1 year from effective date of legislation promulgate regulations for design
147 requirements of capital construction projects consistent with the ventilation requirements set
148 forth in section 117A of chapter 149 and any regulations promulgated thereunder, including but
149 not limited to the following:

150 1) windows must be capable of maintaining openings large enough to accommodate a
151 box or window fan

152 2) ventilation systems must be compatible with the use of filters with a MERV-13 rating
153 or higher

154 3) nurses' offices and medical waiting rooms must meet the requirements of ASHRAE
155 Standard 170

156 4) occupied spaces without windows must have sufficient ventilation to achieve 6 air
157 changes per hour of outdoor air or a combination of outdoor air and air conditioned with a filter
158 of minimum MERV 13 efficiency

159 5) bathrooms must have exhaust fans capable of producing negative pressure relative to
160 the rest of the school building

161 SECTION 4. Notwithstanding any general or special law, rule or regulation to the
162 contrary, the department of elementary and secondary education, in consultation with the
163 department of public health, shall ensure the operation of COVID-19 pooled surveillance testing
164 programs, consistent with public health best practices and relevant guidance from the Centers for
165 Disease Control and Prevention, in all public school districts, for students and employees, on a
166 weekly basis or more frequently. Said testing programs, including but not limited to service
167 provider contracts, testing supplies, follow-up individual testing, personal protective equipment,
168 and compensation for staff associated with testing, shall be operated at no cost to the public
169 school districts and shall be paid for by available state funds or eligible federal funds committed
170 to the commonwealth to provide financial assistance in response to the 2019 novel coronavirus
171 pandemic. The testing programs in each school district shall cover employees and students at the
172 elementary, middle and high school levels and shall be operated in accordance with the
173 provisions of Chapter 150E of the General Laws. Nothing in this section shall restrict or limit
174 more protective or stringent school district or local government mandates, policies or guidance in
175 response to the 2019 novel coronavirus pandemic.

176 SECTION 5. Notwithstanding any general or special law, rule or regulation to the
177 contrary, and in accordance with guidance issued by the department of elementary and secondary
178 education, the department of public health and the Centers for Disease Control and Prevention,
179 the department of elementary and secondary education shall ensure that employees and students
180 in all public school districts have access to face coverings, masks and other personal protective
181 equipment to prevent exposure to COVID-19; provided, that the district shall provide any
182 additional personal protective equipment necessary for conducting COVID-19 testing; and
183 provided, that said face coverings, masks, personal protective equipment, and any additional
184 personal protective equipment necessary for conducting COVID-19 testing shall be provided at
185 no cost to the public school districts and shall be paid for by available state funds or eligible
186 federal funds committed to the commonwealth to provide financial assistance in response to the
187 2019 novel coronavirus pandemic. Nothing in this section shall restrict or limit more protective
188 or stringent school district or local government mandates, policies or guidance in response to the
189 2019 novel coronavirus pandemic.

190 SECTION 6. Notwithstanding any special or general law to the contrary, there shall be a
191 special commission to study ventilation in public school classrooms and facilities, including the
192 regulation of minimum and maximum allowable air temperatures and relative humidity, as well
193 as any relevant statistics on the number of air-conditioned public schools in Massachusetts, the
194 impact of indoor air quality on children, including, but not limited to, children with respiratory
195 conditions or special needs, and the commonwealth's state funding and bidding processes for
196 installing air conditioning and heating upgrades in public schools.

197 The special commission shall consist of: the secretary of the executive office of
198 education, or their designee, who shall serve as chair; the commissioner of the department of

199 elementary and secondary education, or their designee; the commissioner of the department of
200 public health, or their designee; the executive director of the Massachusetts School Building
201 Authority; a representative of the Boston Society for Architects; a representative of the
202 Massachusetts Facilities Administrators Association; a representative of the Massachusetts
203 Teachers Association; a representative of the American Federation of Teachers of
204 Massachusetts; a representative of the Massachusetts Association of School Committees; a
205 representative of the Massachusetts Parent Teacher Association; two teachers, selected by the
206 Massachusetts Teachers Association, who have experienced difficulties with classroom
207 temperatures; a school nurse, selected by the Massachusetts School Nurse Organization; the
208 president of the Massachusetts Association of School Superintendents, or their designee; two
209 members of the House of Representatives, one of whom to be appointed by the Speaker of the
210 House of Representatives, and the other to be appointed by the minority leader; two members of
211 the Senate, one of whom to be appointed by the President of the Senate, and the other to be
212 appointed by the minority leader. The chair shall commence the first meeting of the commission
213 not later than December 1, 2025.

214 The special commission shall submit its findings and recommendations, together with
215 drafts of any legislation, to the clerks of the House of Representatives and the Senate and the
216 chairs of the joint committee on education not later than December 1, 2026.