SENATE DOCKET, NO. 75 FILED ON: 1/14/2011

SENATE . . . . . No. 1088

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 Emergency Medical Treatment and Active Labor Act (EMTALA) providers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	
Richard T. Moore	

SENATE DOCKET, NO. 75 FILED ON: 1/14/2011

SENATE . . . . . No. 1088

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1088) of James B. Eldridge and Richard T. Moore for legislation relative to Emergency Medical Treatment and Active Labor Act providers. Public Health.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to Emergency Medical Treatment and Active Labor Act (EMTALA) providers.

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. Section 12B of Chapter 112, as appearing in the 2008 Official Edition, is hereby amended by adding at the end thereof the following:

Any health care provider, as defined in section one of chapter one hundred and eleven*, who provides emergency medical services, first-aid treatment, or other emergency professional care in compliance with the federal Emergency Medical Treatment and Active Labor Act or as a result of a declared disaster is not liable in damages to any person in a tort action for injury, death, or loss to person or property that allegedly arises from an act or omission of the health care provider?s provision of those services or that treatment or care if that act or omission does not constitute willful or wanton misconduct or a reckless disregard for the consequences so as to affect the life or health of the patient. For the purposes of this section, reckless disregard, as it applies to a given health care provider, means conduct that the provider knew or should have known, at the time those services were rendered, created an unreasonable risk of injury, death, or

13 loss to a person or property so as to affect the life or health or another and that risk was

14 substantially greater than that which is necessary to make the conduct negligent.