SENATE DOCKET, NO. 314 FILED ON: 1/19/2011

SENATE . . . . . No. 1239

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

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 hazardous materials response.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James E. Timilty	
George T. Ross	*2nd Bristol*

SENATE DOCKET, NO. 314 FILED ON: 1/19/2011

SENATE . . . . . No. 1239

By Mr. Timilty, a petition (accompanied by bill, Senate, No. 1239) of James E. Timilty and George T. Ross for legislation relative to hazardous materials response. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *991* OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to hazardous materials response.

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. Subsection (a) of section 5 of Chapter 21K as appearing in the 2006 Official Edition, is hereby amended by adding after the word "release" in each instance it appears, the following words:- "or threat of release"

SECTION 2. Subsection (f) of Section 5 of Chapter 21K as so appearing, is further amended by striking said section in its entirety and inserting in its place, the following section:-

(f) Any person who owns or rents and occupies a family residence that is an emergency response site at which the department has incurred emergency mitigation responses costs for the release or threat of release or oil or hazardous materials, shall not be liable to the department for those costs if he can establish by a preponderance of the evidence that: (1) he is

11 not a person described in clauses (3) or (4) of subsection (a); (2) the site was being used
12 exclusively by him as a family residence at the time of the release or threat of release; and (3) the
13 owner or renter of the family residence did not unlawfully possess, store or use such oil or
14 hazardous materials in violation of law; and (4) said owner or occupants conduct was not grossly
15 negligent in causing the release or threat of release of oil or hazardous materials and; (5) said
16 owner or occupant immediately notified the local fire department of the release or threat of
17 release of oil or hazardous materials as soon as he had knowledge of it.