

HOUSE No. 840

By Representative Provost of Somerville and Senator Jehlen, joint petition of Denise Provost and others for legislation to reduce human exposure to particulate matter pollution. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

PETITION OF:

Denise Provost	William Lantigua
Patricia D. Jehlen	David B. Sullivan
Matthew C. Patrick	William N. Brownsberger
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Carl M. Sciortino, Jr.	Gloria L. Fo

In the Year Two Thousand and Seven.

AN ACT REDUCING HUMAN EXPOSURE TO PARTICULATE MATTER POLLUTION.

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 18. Chapter 17 of the General Laws is hereby amended
2 by inserting after Section 17 the following sections:—
3 “particulate matter” shall mean a broad class of chemically and
4 physically diverse substances that exist as discrete particles in air.
5 “fine particulate matter” shall mean particulate matter less than or
6 equal to 2.5 micrometers in diameter.
7 “ultrafine particulate matter” shall mean particulate matter less
8 than or equal to .1 micrometers in diameter (.1 micrometers is equiv-
9 alent to 100 nanometers).
- 10 SECTION 18A. This Act may be cited as the ‘Healthy Breathing
11 Act of 2007’.
- 12 SECTION 18B. This bill proposes to reduce the incidences of
13 health problems caused or worsened by exposure to fine and ultra-
14 fine particulate matter, by limiting construction of certain facilities
15 in areas with elevated concentrations of particulate matter pollution.
16 In such areas, this bill prohibits the construction or establishment of
17 residential developments and of institutional uses occupied by indi-

18 viduals especially sensitive to the adverse effects of particulate
19 matter pollution.

20 SECTION 18C. Chapter 21A of the General Laws, as appearing
21 in the 2004 Official Edition, is hereby amended by inserting after
22 section 18A the following section:—

23 Section 18B. The department of environmental protection, in con-
24 sultation with the department of public health, shall promulgate reg-
25 ulations based on the best available science establishing health risk
26 assessment guidelines for ultrafine and fine particulate matter con-
27 centrations at a development site or portion of a development site
28 covered in subparagraph g of Section 10 of chapter 28A, Section 9D
29 of Chapter 40A, subsection 6 of Section 7 of Chapter 70B, Section
30 51 of Chapter 111 or Section 71 of Chapter 111. To ensure the accu-
31 racy and completeness of the assessment, these guidelines shall set
32 forth standard procedures for conducting air dispersion modeling;
33 obtaining dose-response values; estimating the frequency, duration
34 and intensity of exposure; and estimating both acute and chronic
35 health risks.

36 SECTION 18D. Section 10 of Chapter 28A of the General Laws,
37 as so appearing, is hereby amended by adding the following para-
38 graph:—

39 (g) The office shall not issue an original license for a school age
40 child care program, day care center, family day care home or large
41 family day care home which is not a part of a family day care
42 system, family day care system, group care facility or temporary
43 shelter facility located within 500 feet of a high-activity roadway as
44 defined in Section 1A of Chapter 40A of the General Laws or a train
45 station or train yard serving diesel locomotives unless the applicant
46 has carried out the health risk assessment described in Section 18B
47 of Chapter 21A of the General Laws and the assessment results indi-
48 cate that short-term and long-term exposure to air at the site will
49 pose no significant health risk.

50 SECTION 18E. Section 1A of Chapter 40A of the General Laws,
51 as so appearing, is hereby amended by inserting before the definition
52 of “permit granting authority” the following definitions:—

53 “high-activity roadway” shall mean any roadway that, on an
54 average day, has traffic in excess of 50,000 vehicles.

55 “hospital” shall mean any institution in the Commonwealth of
56 Massachusetts, however named, whether conducted for charity or for

57 profit, which is advertised, announced, established or maintained for
58 the purpose of caring for persons admitted thereto and staying
59 overnight for diagnosis or medical, surgical or restorative treatment
60 which is rendered within said institution; but shall not include
61 clinics, day surgery centers, dialysis centers, or other such health
62 care facilities which do not admit patients overnight.

63 “long-term care facility” shall mean any institution whether con-
64 ducted for charity or profit which is advertised, announced or main-
65 tained for the express or implied purpose of providing three or more
66 individuals admitted thereto with long-term resident, nursing, conva-
67 lescent or rehabilitative care; supervision and care incident to old
68 age for ambulatory persons; or retirement home care for elderly per-
69 sons. Long-term care facility shall include convalescent or nursing
70 homes, rest homes, and charitable homes for the aged.

71 “public open space” shall mean space intended for use by the
72 general public or by occupants or users of adjacent building for
73 sports, play, recreation, relaxation, gardening, or other outdoor activ-
74 ities; but shall not include passive green spaces, landscaped areas,
75 planted buffer zones, or other open spaces which are not designed
76 for recreational activity.

77 SECTION 18F. Section 1A of Chapter 40A of the General Laws,
78 as so appearing, is hereby amended by inserting after the definition
79 of “permit granting authority” the following definition:—

80 “school” shall mean any public or private institution primarily
81 engaged in the education of persons aged 18 years and younger. This
82 definition does not include institutions of higher education.

83 SECTION 18G. Section 9 of Chapter 40A of the General Laws, as
84 so appearing, is hereby amended by adding the following para-
85 graph:—

86 No residential development, hospital, long-term care facility,
87 school, or public open space shall be permitted to be constructed as
88 of right without a special permit issued upon the finding set forth in
89 Section 9D of Chapter 40A (or if the plans for such facility include
90 either a building structure, apart from parking structures and acces-
91 sory structures, or public open space) within 500 feet of a high-
92 activity roadway or a train yard or train station serving diesel
93 locomotives.

94 SECTION 18H. Said chapter 40A is hereby further amended by
95 inserting after section 9C the following section:—

96 Section 9D. The permit granting authority shall not grant a permit
97 as described in Section 9 of Chapter 40A, for proposed residential
98 development, hospital, long-term care facility or school within 500
99 feet of a high-activity roadway or a diesel rail yard or station,
100 unless—

101 (a) the developer carries out the health risk assessment described
102 in Section 18B of Chapter 21A of the General Laws, and

103 (b) the assessment results indicate that short-term and long-term
104 exposure to air at the site poses no significant health risk.

105 SECTION 18I. Subsection a of Section 6 of Chapter 70B of the
106 General Laws, as so appearing, is hereby amended by inserting after
107 subparagraph (6) the following paragraph:—

108 (7) If the school project includes structures, apart from parking
109 structures and accessory structures, within 500 feet of a high-activity
110 roadway as defined in Section 1A of Chapter 40A of the General
111 Laws or a train station or train yard serving diesel locomotives, the
112 applicant has carried out the health risk assessment described in
113 Section 18B of Chapter 21A of the General Laws and the assessment
114 results indicate that short-term and long-term exposure to air at the
115 site will pose no significant health risk.

116 SECTION 18J. Section 51 of Chapter 111 of the General Laws, as
117 so appearing, is hereby amended by inserting after the second para-
118 graph the following paragraph:—

119 No original license shall be issued to establish a hospital so as to
120 place structures or public open spaces inhabited by patients within
121 500 feet of a high-activity roadway or a train station or train yard
122 serving diesel locomotives unless the developer has carried out the
123 health risk assessment described in section 18B of chapter 21A of
124 the General Laws and the assessment results indicate that short-term
125 and long-term exposure to air at the site will pose no significant
126 health risk. In the case of a facility previously licensed as a hospital
127 in which there is only a change in ownership, no such health risk
128 assessment shall be required, in the absence of expansions or new
129 construction.

130 SECTION 18K. Section 71 of Chapter 111 of the General Laws,
131 as so appearing, is hereby amended by inserting after the second
132 paragraph the following paragraph:—

133 No original license shall be issued to establish a convalescent or
134 nursing home, rest home or charitable home for the aged so as to

135 place residential structures within 500 feet of a high-activity
136 roadway as defined in Section 1 of Chapter 40A or a train station or
137 train yard serving diesel locomotives unless the developer has car-
138 ried out the health risk assessment described in Section 18B of
139 Chapter 21A of the General Laws and the assessment results indicate
140 that short-term and long-term exposure to air at the site will pose no
141 significant health risk. In the case of a facility previously licensed in
142 which there is only a change in ownership, no such health risk
143 assessment shall be required, in the absence of expansion or new
144 construction.