

# SENATE NO. 541

## **AN ACT** TO REDUCE CARBON DIOXIDE EMISSIONS THROUGH PARTICIPATION IN THE REGIONAL GREENHOUSE GAS INITIATIVE

*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. Whereas, scientific findings indicate that the increase in greenhouse gas  
2 emissions, including carbon dioxide, is accelerating the natural greenhouse effect resulting in  
3 changes in the Earth's climate;

4 Whereas, such climate changes pose serious health risks to humans, as well as danger to  
5 ecosystems worldwide;

6 Whereas, this act creates a strong incentive for the creation, development, and deployment of  
7 more efficient fuel burning technologies and processes, energy efficiency and renewable energy  
8 supplies which will lead to less dependence on the import of fossil fuels;

9 It is hereby resolved that the Commonwealth shall enter into and fully comply with the Regional  
10 Greenhouse Gas Initiative, as adopted by eight other northeastern states.

11 SECTION 2. Chapter 111 of the General Laws, as appearing in the 2004 Official Edition, is  
12 hereby amended, by inserting after section 142O the following section:-

13 Section 142P. Greenhouse Gas Emission; Definitions; Regional Greenhouse Gas Initiative.

14 (a) As used in this section, the following words shall have the following meanings:

15 "Allowance" an authorization to emit a fixed amount of carbon dioxide.

16 "Cap and trade program", a policy approach for controlling emissions from a group of emitting  
17 sources, such as electric generating stations, at a total cost that is expected to be lower than if

18 sources were regulated individually by setting an overall cap, or maximum amount of emissions  
19 from all regulated sources per compliance period, that will achieve the desired environmental  
20 effects. A certain number of authorizations to emit in the form of emissions allowances are  
21 created, issued and made available to various persons, companies, organizations or other entities  
22 through a sale by auction or direct allocation. The total number of allowances made available in  
23 any compliance period cannot exceed the cap. Regulated sources are required to completely  
24 and accurately measure and report all covered emissions and then turn in the same number of  
25 allowances as emissions at the end of the compliance period.

26 “Department”, department of environmental protection.

27 “Office”, executive office of environmental affairs.

28 “Regional Greenhouse Gas Initiative” or “RGGI”, Memorandum of Understanding dated  
29 December 20, 2005, as may be amended, and corresponding Model Rule, as may be amended,  
30 that establishes a cap and trade program within the northeast region of the United States.

31 (b) The department shall, in consultation with department of telecommunications and energy,  
32 through rules and regulations, establish a carbon dioxide cap and trade program that will limit  
33 and then reduce the total carbon emissions released by electric generating stations that generate  
34 electric power in the Commonwealth. The department’s rules and regulations establishing a  
35 carbon cap and trade program shall be designed so as to fully comply with the Regional  
36 Greenhouse Gas Initiative (RGGI) and permit the holders of carbon allowances to trade them in  
37 a regional market to be established through the RGGI.

38 (c) The department shall provide in its regulations that one hundred percent of all allowances,  
39 issued under the program in the Commonwealth shall be sold through an auction open to all  
40 who wish to participate.

41 The proceeds recovered from the allowance auction shall be used for consumer benefit,  
42 balancing short and long term benefits. The proceeds shall be used only for the following  
43 purposes, in a proportion to be determined by the department:

- 44 (1) to promote energy efficiency and conservation; and
- 45 (2) to directly mitigate electricity ratepayer impacts; and
- 46 (3) to promote renewable non-carbon emitting energy technologies.

47 (d) The office and the department shall determine and specify the auction of carbon dioxide  
48 emission allowances, including its design, what entity shall conduct and manage it and the  
49 timing of the auction in any year relative to the dates of the compliance period in RGGI. The  
50 office shall engage an independent contractor, consumer trustee or other entity experienced in  
51 auction design and management or contract with a consumer trustee or other entity determined  
52 by the office to be qualified to conduct the auction in a manner that assures the efficiency of the  
53 auction. The determination of an independent contractor, consumer trustee or other entity shall  
54 include an open and public request for proposals from parties seeking to conduct the auction.  
55 Said proposals shall include a summary of qualifications and experience relevant to conducting  
56 the auction. Any person or entity selected by the office to conduct the auction shall only be  
57 reimbursed for reasonable costs of administering the program, as determined by the office or the  
58 department. The independent contractor, consumer trustee or other entity shall be authorized to  
59 receive, hold and sell allowances for the long-term benefits of consumers. The department shall  
60 convey all allowances to the independent contractor, consumer trustee or other entity who shall  
61 collect the auction proceeds and shall, without further appropriation, distribute the proceeds in  
62 accordance with subsection (c), under the oversight of the department. Annually, the  
63 independent contractor, consumer trustee or other entity shall submit to the department a draft a

64 proposal on how the proceeds from the allowances shall be allocated. The department shall  
65 hold a public hearing and accept public comment, in accordance with chapter 30A on the draft  
66 proposal, and approve, modify or reject the draft proposal. If the department rejects the  
67 proposal, it shall work with independent contractor, consumer trustee or other entity to draft an  
68 acceptable proposal in accordance with subsection (c).

69 The office shall require an annual report from the independent contractor, consumer  
70 trustee or other entity describing the auction and its results. Said report shall be made public  
71 and shall be submitted to the joint committee on environment, natural resources and agriculture.

72 (e) The responsibilities created by establishing a carbon dioxide cap and trade program shall  
73 be in addition to all other responsibilities imposed by any other general or special law or rule or  
74 regulation and shall not diminish or reduce any power or authority of the department including  
75 the authority to adopt standards and regulations necessary for the Commonwealth to join and  
76 fully participate in any multi-state program, at any stage in the development and implementation  
77 of such a program, intended to control emissions of carbon dioxide and/or other substances that  
78 are determined by the department to be damaging and/or altering the climate.

79 (f) Notwithstanding any general or special law or regulation to the contrary, the state  
80 comptroller shall grant a permanent waiver or exemption from any and all applicable charges or  
81 assessments made against the proceeds from the auction of allowances pursuant to this section  
82 by the office of the comptroller pursuant to its authority under sections 5D and 6B of chapter 29  
83 of the General Laws.

84 SECTION 3. Chapter 164 of the General Laws, as appearing in the 2004 Official Edition, is  
85 hereby amended, by inserting after section 94H the following section:-

86 Section 94I. Implementation of the Regional Greenhouse Gas Initiative.

87 The department shall, in consultation with department of environmental protection and the  
88 Attorney General's office, through its authority under this chapter, including the review of rates,  
89 prices and schedules, adopt rules and regulations that fully implements the regional greenhouse  
90 gas cap and trade program mandated by section 142P of chapter 111 of the general laws. The  
91 department is authorized to adopt rules and regulations and enter any orders that ensure that the  
92 carbon dioxide emissions associated with electric power serving the Commonwealth customer  
93 load are treated on a commercially comparable basis regardless of the location of the power  
94 stations running to serve that load.

95 SECTION 4. On or before January 1, 2008, the department of environmental protection shall  
96 promulgate regulations implementing section 142P of chapter 111.