

SENATE, No. 2184

AN ACT TO CREATE ENVIRONMENTAL JUSTICE

*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.. The general court finds that:

2 (1) some communities in the commonwealth are disproportionately burdened by
3 environmental hazards such as excessive air pollution, water pollution, hazardous waste
4 and noise;

5 (2) the health, safety and quality of life of residents and workers in these communities,
6 but especially the children, elderly and those with already-compromised health are
7 negatively affected by these hazards;

8 (3) concentrations of pollution sources pose a significant barrier to economic
9 development in low income neighborhoods and communities of color in particular;

10 (4) many of these impacted communities desire cleaner and safer development to ensure
11 economic security;

12 (5) the commonwealth seeks to ensure equal protection of all residents, affirm human
13 rights and promote public health and environmental quality in all communities.

14 SECTION 2. Section 2 of chapter 21 of the General Laws, as appearing in the 2002
15 Official Edition, is hereby amended by inserting after clause (7) the following clause:-

16 (7A) develop statewide policies to promote environmental justice in the commonwealth
17 and protect and regulate the use of areas of critical environmental justice concern in the
18 commonwealth.

19 SECTION 3. Chapter 21A of the General Laws, as so appearing, is hereby amended by
20 adding the following sections:-

21 Section 21. As used in this section and in section 22, the following words shall have the
22 following meanings unless the context clearly requires otherwise:

23 “Cleaner production,” a manufacturing process or approach to manufacturing production
24 that is based on toxics use reduction and pollution prevention and that strives to
25 incorporate the following components: waste reduction, non-polluting production,
26 energy efficiency, safe and healthy work environments, and environmentally sound
27 products and packaging.

28 “Disproportionate burden,” a group of people bears an unfair share of environmental
29 pollution from industrial, commercial, state and municipal operations or have limited
30 access to natural resources, including open space and water resources.

31 "Equal protection," no group of people, because of race, ethnicity, class, gender, or
32 handicap bears an unfair share of environmental pollution from industrial, commercial,
33 state and municipal operations or has limited access to natural resources, including open
34 space and water resources.

35 "Environmental benefits," access to funding, open space, enforcement, technical
36 assistance, training, or other beneficial resources disbursed by the secretary of
37 environmental affairs, its agencies, and its offices.

38 "Environmental justice," the equal protection and meaningful involvement of all people
39 with respect to the development, implementation, and enforcement of environmental
40 laws, regulations, and policies and the equitable distribution of environmental benefits.

41 "Environmental justice population," a neighborhood where the annual median household
42 income is equal to or less than 65 percent of the statewide median or whose population
43 is made up 25 percent minority, foreign born, or lacking English language proficiency;
44 or where the secretary has determined that a community has received a disproportionate
45 burden or otherwise not received equal protection.

46 "Foreign born," individuals who identify themselves on federal census forms as not U.S.
47 citizens at birth.

48 "Lacking English language proficiency," households that, according to federal census
49 forms, do not have an adult proficient in English.

50 "Low income," median annual household income at or below 65 percent of the statewide
51 median income for Massachusetts, according to federal census data.

52 "Meaningful involvement," that all neighborhoods have the right to participate in
53 partnership with government in environmental decision-making including needs
54 assessment, planning, implementation, enforcement, and evaluation, and that all
55 neighborhoods are enabled and administratively assisted to participate fully through
56 education and training means, and encouraged to develop environmental stewardship.

57 "Minority," individuals who identify themselves on federal census forms as non-white or
58 Hispanic.

59 "Neighborhood," a census block group as defined by the U.S. Census Bureau but not
60 including people who live in college dormitories or people under formally authorized,
61 supervised care or custody.

62 "Supplemental environmental project," the performance of environmentally beneficial
63 projects in the settlement of environmental enforcement cases.

64 Section 22. (1) The secretary of environmental affairs shall establish an environmental
65 justice program consisting of, but not limited to, the following components:

66 (a) A policy position entitled the director of environmental justice and brownfields
67 redevelopment within the office of the secretary. The director will act as the initial point
68 of contact on all environmental justice matters and shall coordinate the implementation
69 of this policy, track progress, and prepare annual reports for public distribution. The

70 director shall develop a workplan for the implementation of the environmental justice
71 program within the office of the secretary.

72 (b) Identify EJ populations to be serviced by this section via geographic information
73 systems mapping or other suitable tools, and update this map as new United States
74 census data becomes available.

75 (c) Establish a procedure under which additional communities that do not fall under the
76 strict demographic definition of an environmental justice population may petition for
77 such status. The secretary shall make a finding whether the petitioner has borne a
78 disproportionate burden or otherwise has not received equal protection.

79 (d) Establish regional agency outreach teams of liaisons from each agency and region.
80 The teams shall, without limitation: (1) open lines of communication with local
81 neighborhood groups through routine meetings, (2) establish specific task forces, (3)
82 further identify languages issues, (4) identify enforcement priorities on a local basis, (5)
83 identify a list of community improvement projects, (6) allow issues with existing
84 facilities to be raised and addressed, (7) assist the department of environmental
85 protection and other agencies with targeting enforcement, (8) assist the office of
86 technical assistance and other agencies with targeting assistance; and (9) identify
87 potential economic development opportunities that promote cleaner production and
88 sustainable business practices.

89 (e) Establish and coordinate the efforts of an working group made up of senior-level
90 managers from each agency within the executive office of environmental affairs, the

91 department of economic development, the department of housing and community
92 development, and the department of public health, as well as representatives from at
93 least two environmental justice populations. The working group shall maximize state
94 resources, research, and technical assistance to further the goals of this legislation to
95 ensure environmental justice concerns are evaluated and addressed in each of the
96 agencies' jurisdiction and programs.

97 (f) Direct agencies under the secretary to designate senior-level managers to participate
98 in and actively support the working group and the regional agency environmental justice
99 outreach teams.

100 (g) Direct agencies under the secretary to identify and promote agency-sponsored
101 projects, funding decisions, rulemakings or other actions intended to further
102 environmental justice in the commonwealth.

103 (h) Target resources to create, restore, and maintain open spaces located in
104 neighborhoods where environmental justice populations reside. At a minimum the
105 interagency land committee which includes the department of conservation and
106 recreation, the division of fisheries and wildlife, together with the office of
107 environmental law enforcement in the office of the secretary, shall make it a priority to
108 promote preserving and restoring open spaces in neighborhoods where environmental
109 justice populations reside.

110 (i) Provide an introductory environmental justice training program for employees in the
111 executive office of environmental affairs, watershed teams, and municipalities applying

112 for grant programs or for any other resources prioritized or focused on neighborhoods
113 where environmental justice populations reside. Staff serving on regional agency
114 environmental justice outreach teams; employees or organizations disbursing state funds
115 to municipalities, individuals, and organizations for the provision of open space, river
116 maintenance or restoration, education, and technical assistance; environmental policy
117 staff; and the environmental justice working group shall receive such training.

118 (j) Develop fact sheets describing programs directly relevant to obtaining funding or
119 additional resources for environmental justice populations, including but not limited to
120 the urban self help program, Massachusetts Environmental Trust, and the Massachusetts
121 environmental policy act. These fact sheets shall be made available in languages other
122 than English.

123 (k) Develop a distribution list of interested members of environmental justice
124 populations, non-profit organizations, and others to be incorporated into mailing lists for
125 newsletters and other general outreach information.

126 (l) Develop and maintain a list of alternative information outlets that service
127 environmental justice populations for the purpose of seeking public comments or
128 publishing public notices.

129 (m) Establish multiple information repositories in neighborhoods where environmental
130 justice populations reside.

131 (n) Direct agencies to develop a Public Participation Strategy that focuses agency
132 resources on outreach activities to enhance public participation opportunities for agency

133 activities that potentially affect environmental justice populations, including but not
134 limited to: (1) scheduling public meetings or hearings at locations and times convenient
135 for neighborhood stakeholders; (2) translating public notices into other languages; (3)
136 offering interpreters and translated documents at public meetings; (4) providing notices
137 as early as possible to all neighborhoods potentially impacted by a decision; and (5)
138 assisting environmental justice populations with grant applications and questions about
139 environmental regulations to assist them with compliance and sustainability.

140 (o) Work with other agencies as necessary to maximize site remediation and
141 redevelopment programs under chapter 206 of the acts of 1998 and to promote
142 nonpolluting development in neighborhoods where environmental justice populations
143 reside.

144 (p) Direct the Massachusetts watershed initiative teams to identify and address
145 environmental justice issues and to identify and reclaim brownfields sites identified
146 under chapter 206 of the acts of 1998 within each watershed.

147 (q) Direct the Massachusetts environmental policy act office to (1) develop enhanced
148 public participation for any project that exceeds an Environmental Notification Form
149 threshold for air, solid and hazardous waste (other than remediation projects), or
150 wastewater and sewage sludge treatment and disposal, if the project site is located within
151 one mile of an environmental justice population (or in the case of projects exceeding
152 said threshold for air, within 5 miles of an environmental justice population); and require
153 enhanced analysis of impacts and mitigation for an Environmental Impact Report scope
154 if the project exceeds a mandatory Environmental Impact Report threshold for air, solid

155 and hazardous waste (other than remediation projects), or wastewater and sewage sludge
156 treatment and disposal, and the project site is located within one mile of an
157 environmental justice population (or in the case of projects exceeding a mandatory
158 threshold for air, within 5 miles of an environmental justice population). Thresholds for
159 the forms and reports identified in this subsection are codified at 310 CMR 11.00 et seq.

160 (2) Exempt site assessment grants and loans granted under the Brownfields
161 Redevelopment Fund, as well as investment tax credits for equipment, tenant fit-ups, and
162 other post-development activities administered under chapter 206 of the acts of 1998
163 from the category of state financial assistance for the purposes of triggering
164 Massachusetts environmental policy act review. Projects undertaken under chapter 206
165 of the acts of 1998 that otherwise trigger Massachusetts environmental policy act review
166 may be considered environmental restoration projects and subject to expedited review.
167 In making a decision, the secretary will consider the extent to which the new proposal
168 would prevent pollution and eliminate or minimize risks to public health and the
169 environment.

170 (r) Direct the department of environmental protection to (1) prioritize neighborhoods
171 where environmental justice populations reside when selecting sectors and facilities for
172 inspection and monitoring, prosecuting non-compliance, providing compliance
173 assistance and allocating resources; (2) prioritize municipal outreach for sites identified
174 under chapter 21E to neighborhoods with environmental justice populations; (3)
175 incorporate environmental justice as a criterion for awarding technical assistance grants
176 to non-profit organizations; (4) prioritize technical assistance to environmental justice

177 populations in neighborhoods with hazardous waste sites identified under chapter 21E;
178 (5) communicate with the list of community-based organizations in neighborhoods
179 where environmental justice populations reside in addressing compliance matters; (6)
180 consider environmental justice as a factor in establishing priorities for activity use
181 limitation audits under chapter 21E; (7) incorporate environmental justice as a criterion
182 in prioritizing the investigation of sites, negotiating cost recovery under chapter 21E; (8)
183 provide for commensurate cost recovery to municipalities for “back taxes” (exclusive of
184 interest and penalties) on sites identified under said chapter 21E and located in
185 neighborhoods where environmental justice populations reside; and (9) meet regularly
186 with the executive office of environmental affairs and the department of public health to
187 coordinate on environmental issues potentially affecting public health, including matters
188 related to exposures from multiple sources of pollution.

189 SECTION 4. The executive office of environmental affairs shall adopt the initial
190 regulations required by clause (7A) of section 2 of chapter 21A within 90 days after the
191 effective date of this act.