



THE COMMONWEALTH OF MASSACHUSETTS
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DEVAL L. PATRICK
GOVERNOR

ATTACHMENT H

July 12, 2013

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution, I am returning to you for amendment Section 81 of House Bill No. 3538, "An Act Making Appropriations for the Fiscal Year 2014 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements."

Section 81 would prohibit the Department of Environmental Protection from issuing a Chapter 91 license to ethanol storage or blending facilities in densely populated areas of the state, which would have the effect of significantly constraining the transport of ethanol in Massachusetts. It is critical we ensure that ethanol and other hazardous materials are transported safely throughout the Commonwealth and that mitigation measures are in place in the event of an incident. However, as currently drafted Section 81 would interfere with marine terminal operations and potentially impact existing licenses throughout the state. Consequently, I propose to amend the section to ensure it is more precisely tailored to effectuate its underlying purpose. My amendment would prohibit for two years the addition of new routes of ethanol transport by rail in certain port areas, allowing time for the related safety issues to be more fully considered.

Additionally, as drafted Section 81 would not address the kinds of mitigation measures that are necessary in densely populated areas of the state, particularly environmental justice communities, through which ethanol passes by rail. To address this issue, I propose to direct the Massachusetts Emergency Management Agency (MEMA) to develop a comprehensive ethanol transport response plan for all municipalities through which ethanol travels by rail. Under my proposed amendment, MEMA would work with relevant local, state and federal officials to develop a comprehensive plan addressing areas such as safety, training, communications and essential infrastructure improvements, as well as any necessary mitigation measures.

For these reasons, I recommend that Section 81 be amended by striking out the text and inserting in place thereof the following text:-

SECTION 81.

- A. Notwithstanding any general or special law to the contrary, no license shall be issued under section 14 of chapter 91 of the General Laws, as appearing in the 2012 Official Edition, permitting the transport of ethanol by rail to bulk storage and transfer facilities in the East Boston, Revere or Chelsea Creek Designated Port Areas until July 1, 2015.
- B. Notwithstanding any general or special law to the contrary, the status of licenses issued under section 14 of said chapter 91 of the General Laws before the effective date of this section shall not be impacted by this section.
- C. (a) Notwithstanding any general or special law to the contrary, the Massachusetts emergency management agency, in this section called MEMA, shall develop a comprehensive ethanol transport response plan for all municipalities that accommodate the transport of ethanol by rail. The response plan shall be developed in consultation with the Massachusetts department of transportation, the division of fire services, the department of environmental protection, the department of public health, the public safety departments of the impacted municipalities, the

federal Department of Homeland Security, the Federal Railroad Administration, the federal Surface Transportation Board, and other relevant federal, state and local agencies and entities that would be involved in emergency response within the specified communities.

(b) The response plan shall include, but not be limited to, the following: (1) training related to ethanol and flammable gases; (2) identification of critical facilities along the potential ethanol transportation routes; (3) development of a regional foam response task force, including an inventory and analysis of the amount of alcohol-resistant foam needed to combat an ethanol related accident and the vehicles and equipment needed to utilize the foam effectively; (4) potential evacuation routes and procedures for when the public should be advised to shelter in place; (5) methods to communicate with limited English language speakers in the event of an incident; and (6) necessary improvements to the transportation and rail facilities to be utilized during ethanol transport.

(c) On or before October 1, 2014, MEMA shall file the response plan with the joint committee on public safety and homeland security. The response plan may also include any legislative recommendations that MEMA considers appropriate. The response plan shall include a methodology under which any entity transporting ethanol by rail shall be assessed to provide funding for the development of the response plan and the training, equipment and any other mitigation measures as recommended by the response plan. Impacted municipalities and agencies shall pursue federal grants as necessary in order to subsidize, to the extent feasible, the cost of the training and equipment recommended by the response plan. MEMA may issue regulations to establish the means and methods by which it will assess entities transporting ethanol by rail to fund the development of the response plan and the mitigation measures recommended by MEMA in the response plan.

Respectfully submitted,

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