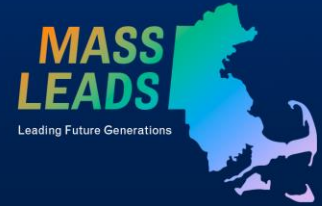


# AN ACT RELATIVE TO STRENGTHENING MASSACHUSETTS' ECONOMIC LEADERSHIP



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## *Consumer Protection*

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### **Introduction**

The Office of Consumer Affairs and Business Regulation (OCABR) protects and empowers consumers through advocacy and education, and ensures a fair playing field for the Massachusetts businesses its agencies regulate. The five regulatory agencies that fall under OCABR are the Division of Banks, the Division of Occupational Licensure, the Department of Telecommunications and Cable, the Division of Insurance, and the Division of Standards. Each agency plays an important role for the Commonwealth's economy through licensing and regulatory activities.

The Healey-Driscoll Administration included two notable consumer protection initiatives in the Mass Leads Act: Home Improvement Contractor (HIC) Program updates; and a uniform inspection and testing system for public electric vehicle (EV) charging stations at the Division of Standards. These proposals are outlined in more detail below.

### **Increasing Consumer Access and Expanding the Enforcement Capabilities of the HIC Program**

Home improvement is a common activity for homeowners across Massachusetts. These projects can be fraught with uncertainty and challenges in the best of circumstances. The HIC Program helps educate consumers on best practices for engaging with a home improvement contractor and registers home improvement contractors that solicit, bid on, or perform residential contracting.

Fair standards provide guardrails for consumers and create a level playing field for businesses. In the event of a dispute, OCABR operates an arbitration program as an alternative dispute resolution option, as well as a fund of last resort that was established to compensate consumers for unpaid judgments against contractors through the HIC Guaranty Fund up to a statutorily set limit of \$10,000.

**HIC Program Legislative Framework:** To better protect consumers, improve access to the program, and reflect the increased costs of construction, the HIC program requires the following statutory updates:

- **Increase the statute of limitations for filing an arbitration claim from two (2) to five (5) years from the date the home improvement contract is signed:** Homeowners oftentimes are not aware of issues arising from a home improvement project until well after the current two-year limitation and some projects go beyond two years, especially if there are supply issues, or other unforeseen delays.
- **Allow homeowners to access the Guaranty Fund without a court judgment:** Homeowners are currently required to convert an arbitration award into a court judgment before accessing the Guaranty Fund, creating unnecessary barriers and delays, and adding unnecessary costs. The proposed change would allow an arbitration award to be sufficient for a homeowner to access

the Guaranty Fund. This will simplify procedures and allow an award to be sent to a homeowner in a more efficient and timely manner.

- **Revise the timeframe and standard for a homeowner to file a claim with the Guaranty Fund:** Currently, upon a court judgment or arbitration award, a homeowner has *ONLY* six (6) months to exhaust all reasonable and customary efforts to collect a judgment or award before applying to the fund or be barred from submitting a claim. Eliminating this six-month timeframe and collecting requirement will provide homeowners with a fair and just process to access the fund.
- **Increase the Maximum Payable Amount from the Guaranty Fund:** The HIC Guaranty Fund cap of \$10,000 was established in 1992. During the last two fiscal years home improvement contracts that were not performed according to statutory and regulatory requirements have led to actual losses for homeowners higher than the \$10,000 payout limit. Increasing the limit to \$25,000 will allow a complete payout for most homeowner claims. This change will align payouts with inflation and more effectively compensate homeowners for their actual losses. Guaranty Fund monies come from payments made by contractors directly into the established fund, not state budget appropriations.
- **Expand Enforcement Capabilities and Allow for Negotiated Settlements:** Allow OCABR to discipline when a registrant is disciplined in another state and to permit OCABR to enter into disciplinary consent agreements with registrants, which will speed up enforcement and save resources by bypassing adjudicatory hearings. This expansion will align OCABR with other professional oversight agencies such as the Division of Occupational Licensure and the Department of Public Health.
- **Improve Access, Equity, and Inclusion:** In general, Massachusetts' contractor population is well-represented by immigrant and first-generation business owners and these statutory changes level the playing field for those registered in the HIC program. OCABR programs work to lower barriers to dispute resolution through arbitration, which presents a more equitable path to resolution for all communities. Improvements to the HIC Program that foster more efficient resolution of complaints and more timely response to contractors that are not complying with the laws benefit businesses that operate responsibly.

With these updates, OCABR will be better able to administer this program efficiently and nimbly, which provides direct and tangible protection to consumers and strives to ensure the registration of only those businesses operating in a responsible manner. By ensuring a stable and well-regulated environment the HIC Program incentivizes homeowners to make long-term investments in their properties—and people who invest in their homes in Massachusetts, stay in their homes in Massachusetts.

**Encouraging the Transition to EVs by Increasing the Accessibility and Accuracy of Public EV Chargers**

According to opinion polling<sup>1</sup> of American consumers, one of the greatest concerns of those considering purchasing an electric vehicle is access to functioning, accurate, conveniently located, and publicly accessible charging stations, also known as electric vehicle supply equipment (EVSE). These fears are, unfortunately, well-founded. Several studies have found that as many as half of installed public EVSEs examined were not functioning or were functioning incorrectly.

Currently there is no requirement to register EVSE in the Commonwealth. Consequently, accurate location and status information is not always readily available to consumers and device owners alike. Further, no consumer protection or accessibility requirements are enforced in Massachusetts with respect to EVSEs, which means owners of public devices are not operating on a level playing field for considerations like member subscriptions and payment methods. Finally, public EVSEs across the state are not tested to ensure that required payments for charging sessions accurately reflect the amount of electricity delivered.

The Healey-Driscoll Administration aims to have one million electric vehicles on Massachusetts roads by 2030. As of August 2023, there are 2,623 publicly accessible charging station locations operating in the state, supporting 6,082 total ports. To support the Administration's goal, the Massachusetts Division of Standards (DOS) needs to scale up its ability to oversee consumer protection measures such as collecting data from public EVSE owners, testing public EVSEs for functionality, and making such information publicly available.



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<sup>1</sup> [https://www.ey.com/en\\_us/news/2023/06/ey-research-nearly-half-of-us-car-buyers-intend-to-purchase-an-ev#](https://www.ey.com/en_us/news/2023/06/ey-research-nearly-half-of-us-car-buyers-intend-to-purchase-an-ev#)

## **DOS-EVSE Legislative and Regulatory Framework**

H. 4459 provides for the following:

- **Close a Consumer Protection Gap**
  - Require public EVSE owners to register their devices with DOS and authorize the sharing of data such as device location and status;
  - Clarify existing public EVSE testing and operating requirements to ensure consistency across devices;
  - Adopt consumer price advertising that shows the total price, including taxes, usage fees, and membership fees;
  - Require payment options accessible to the public and prohibit required subscription fees or memberships; and
  - Develop regulations specifying technical and consumer signage requirements and other provisions that better inform consumers, such as clearly displaying the volume of electricity provided during each transaction.
  
- **Level the Regulatory Playing Field for Businesses**
  - Clarify the Commonwealth's current public EVSE testing and reporting requirements and centralize these functions with DOS; and
  - Authorize regulations for device registration, inspection frequency and timing, and related requirements, allowing for industry participation and DOS oversight of this quickly evolving and relatively new industry.
  
- **Improve Access, Equity, and Inclusion**
  - An EVSE inspection and registration system will enable the Commonwealth to monitor where chargers are installed and how they are maintained, which will better ensure equitable access to chargers across communities.

To meet demand and support expected growth, the Electric Vehicle Infrastructure Coordinating Council has estimated that Massachusetts will need 10,000 Level 3 and 35,000 Level 2 public EVSEs. By giving DOS the necessary tools to regulate this important sector, this legislation will help protect consumers, businesses, industry, and suppliers by creating clear, predictable standards for the installation, operation and use of charging stations.