

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Denise Provost**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act reducing human exposure to particulate matter pollution.

PETITION OF:

NAME:

Denise Provost

DISTRICT/ADDRESS:

27th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 840 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### 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 by inserting after Section 17 the  
2 following sections:—

3           “particulate matter” shall mean a broad class of chemically and physically diverse substances that exist  
4 as discrete particles in air

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6           “fine particulate matter” shall mean particulate matter less than or equal to 2.5 micrometers in  
7 diameter

8

9           “ultrafine particulate matter” shall mean particulate matter less than or equal to .1 micrometers in  
10 diameter (.1 micrometers is equivalent to 100 nanometers)

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12           **SECTION 18A.** This Act may be cited as the ‘Healthy Breathing Act of 2007’

13

14           **SECTION 18B.** This bill proposes to reduce the incidences of health problems caused or worsened by  
15 exposure to fine and ultrafine particulate matter, by limiting construction of certain facilities in areas

16 with elevated concentrations of particulate matter pollution, or by mitigating such exposure to levels  
17 compatible with human health. In such areas, this bill prohibits the construction or establishment of  
18 publicly funded or subsidized residential developments and of institutional uses occupied by individuals  
19 especially sensitive to the adverse effects of particulate matter pollution.

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

23

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

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34 **SECTION 18D.** Section 10 of chapter 28A of the General Laws, as so appearing, is hereby amended by  
35 adding the following paragraph:-

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

45

46 **SECTION 18E.** Section 1A of chapter 40A of the General Laws, as so appearing, is hereby amended by  
47 inserting before the definition of "permit granting authority" the following definitions:-

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

51

52 “hospital” shall mean any institution in the Commonwealth of Massachusetts, however named, whether  
53 conducted for charity or for profit, which is advertised, announced, established or maintained for the  
54 purpose of caring for persons admitted thereto and staying overnight for diagnosis or medical, surgical  
55 or restorative treatment which is rendered within said institution; but shall not include clinics, day  
56 surgery centers, dialysis centers, or other such health care facilities which do not admit patients  
57 overnight.

58

59 “long-term care facility” shall mean any institution whether conducted for charity or profit which is  
60 advertised, announced or maintained for the express or implied purpose of providing three or more  
61 individuals admitted thereto with long-term resident, nursing, convalescent or rehabilitative care;  
62 supervision and care incident to old age for ambulatory persons; or retirement home care for elderly  
63 persons. Long-term care facility shall include convalescent or nursing homes, rest homes, and charitable  
64 homes for the aged.

65

66 “public open space” shall mean space intended for use by the general public or by occupants or users of  
67 adjacent building for sports, play, recreation, relaxation, gardening, or other outdoor activities; but shall  
68 not include passive green spaces, landscaped areas, planted buffer zones, or other open spaces which  
69 are not designed for recreational activity.

70

71 **SECTION 18F.** Section 1A of chapter 40A of the General Laws, as so appearing, is hereby amended by  
72 inserting after the definition of “permit granting authority” the following definition:-

73

74 “school” shall mean any public or private institution primarily engaged in the education of persons aged  
75 18 years and younger. This definition does not include institutions of higher education.

76

77 **SECTION 18G.** Section 9 of chapter 40A of the General Laws, as so appearing, is hereby amended by  
78 adding the following paragraph:-

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80 No publically funded or publically subsidized residential development, hospital, long-term care facility,  
81 school, or public open space shall be permitted to be constructed as of right without a special permit

82 issued upon the finding set forth in Section 9D of Chapter 40A (OR if the plans for such facility include  
83 either a building structure, apart from parking structures and accessory structures, or public open space)  
84 within 500 feet of a high-activity roadway or a train yard or train station serving diesel locomotives.

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86 **SECTION 18H.** Said chapter 40A is hereby further amended by inserting after section 9C the following  
87 section:-

88

89 Section 9D. The permit granting authority shall not grant a permit as described in section 9 of chapter  
90 40A, for proposed residential development, hospital, long-term care facility or school within 500 feet of  
91 a high-activity roadway or a diesel rail yard or station, unless

92 (a) the developer carries out the health risk assessment described in section 18B of chapter 21A of the  
93 General Laws, and

94 (b) the assessment results indicate that short-term and long-term exposure to air at the site poses no  
95 significant health risk, or

96 (c) such exposure can and will be mitigated so as to pose no significant risk to human health.

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98 **SECTION 18I:** Subsection a of section 6 of chapter 70B of the General Laws, as so appearing, is hereby  
99 amended by inserting after subparagraph (6) the following paragraph:-

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101 (7) If the school project includes structures, apart from parking structures and accessory structures,  
102 within 500 feet of a high-activity roadway as defined in Section 1A of Chapter 40A of the General Laws  
103 or a train station or train yard serving diesel locomotives, the applicant has carried out the health risk  
104 assessment described in section 18B of chapter 21A of the General Laws and the assessment results  
105 indicate that short-term and long-term exposure to air at the site will pose no significant health risk, or  
106 that such exposure can and will be mitigated so as to pose no significant risk to human health.

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108 **SECTION 18J:** Section 51 of Chapter 111 of the General Laws, as so appearing, is hereby amended by  
109 inserting after the second paragraph the following paragraph:-

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111 No original license shall be issued to establish a hospital so as to place structures or public open spaces  
112 inhabited by patients within 500 feet of a high-activity roadway or a train station or train yard serving  
113 diesel locomotives unless the developer has carried out the health risk assessment described in section

114 18B of chapter 21A of the General Laws and the assessment results indicate that short-term and long-  
115 term exposure to air at the site will pose no significant health risk, or that such exposure can and will be  
116 mitigated so as to pose no significant risk to human health. In the case of a facility previously licensed as  
117 a hospital in which there is only a change in ownership, no such health risk assessment shall be required,  
118 in the absence of expansions or new construction.

119

120 **SECTION 18K:** Section 71 of Chapter 111 of the General Laws, as so appearing, is hereby amended by  
121 inserting after the second paragraph the following paragraph:-

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123 No original license shall be issued to establish a convalescent or nursing home, rest home or charitable  
124 home for the aged so as to place residential structures within 500 feet of a high-activity roadway as  
125 defined in section 1 of chapter 40A or a train station or train yard serving diesel locomotives unless the  
126 developer has carried out the health risk assessment described in section 18B of chapter 21A of the  
127 General Laws and the assessment results indicate that short-term and long-term exposure to air at the  
128 site will pose no significant health risk, or that such exposure can and will be mitigated so as to pose no  
129 significant risk to human health. In the case of a facility previously licensed in which there is only a  
130 change in ownership, no such health risk assessment shall be required, in the absence of expansion or  
131 new construction.

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