

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Sonia Chang-Díaz

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 to create environmental justice.

PETITION OF:

NAME:

Sonia Chang-Díaz

DISTRICT/ADDRESS:

Second Suffolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02184 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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 environmental
3 hazards such as excessive air pollution, water pollution, hazardous waste and noise;
- 4 (2) the health, safety and quality of life of residents and workers in these communities, but
5 especially the children, elderly and those with already-compromised health are negatively
6 affected by these hazards;
- 7 (3) concentrations of pollution sources pose a significant barrier to economic development in low
8 income neighborhoods and communities of color in particular;
- 9 (4) many of these impacted communities desire cleaner and safer development to ensure
10 economic security;

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

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

15 (7A) develop statewide policies to promote environmental justice in the commonwealth and
16 protect and regulate the use of areas of critical environmental justice concern in the
17 commonwealth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

85 (e) Establish and coordinate the efforts of an working group made up of senior-level managers
86 from each agency within the executive office of environmental affairs, the department of
87 economic development, the department of housing and community development, and the
88 department of public health, as well as representatives from at least two environmental justice
89 populations. The working group shall maximize state resources, research, and technical

90 assistance to further the goals of this legislation to ensure environmental justice concerns are
91 evaluated and addressed in each of the agencies' jurisdiction and programs.

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

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

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

104 (i) Provide an introductory environmental justice training program for employees in the
105 executive office of environmental affairs, watershed teams, and municipalities applying for grant
106 programs or for any other resources prioritized or focused on neighborhoods where
107 environmental justice populations reside. Staff serving on regional agency environmental justice
108 outreach teams; employees or organizations disbursing state funds to municipalities, individuals,
109 and organizations for the provision of open space, river maintenance or restoration, education,

110 and technical assistance; environmental policy staff; and the environmental justice working
111 group shall receive such training.

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

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

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

121 (m) Establish multiple information repositories in neighborhoods where environmental justice
122 populations reside.

123 (n) Direct agencies to develop a Public Participation Strategy that focuses agency resources on
124 outreach activities to enhance public participation opportunities for agency activities that
125 potentially affect environmental justice populations, including but not limited to: (1) scheduling
126 public meetings or hearings at locations and times convenient for neighborhood stakeholders; (2)
127 translating public notices into other languages; (3) offering interpreters and translated documents
128 at public meetings; (4) providing notices as early as possible to all neighborhoods potentially
129 impacted by a decision; and (5) assisting environmental justice populations with grant

130 applications and questions about environmental regulations to assist them with compliance and
131 sustainability.

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

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

138 (q) Direct the Massachusetts environmental policy act office to (1) develop enhanced public
139 participation for any project that exceeds an Environmental Notification Form threshold for air,
140 solid and hazardous waste (other than remediation projects), or wastewater and sewage sludge
141 treatment and disposal, if the project site is located within one mile of an environmental justice
142 population (or in the case of projects exceeding said threshold for air, within 5 miles of an
143 environmental justice population); and require enhanced analysis of impacts and mitigation for
144 an Environmental Impact Report scope if the project exceeds a mandatory Environmental Impact
145 Report threshold for air, solid and hazardous waste (other than remediation projects), or
146 wastewater and sewage sludge treatment and disposal, and the project site is located within one
147 mile of an environmental justice population (or in the case of projects exceeding a mandatory
148 threshold for air, within 5 miles of an environmental justice population). Thresholds for the
149 forms and reports identified in this subsection are codified at 310 CMR 11.00 et seq.

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

159 (r) Direct the department of environmental protection to (1) prioritize neighborhoods where
160 environmental justice populations reside when selecting sectors and facilities for inspection and
161 monitoring, prosecuting non-compliance, providing compliance assistance and allocating
162 resources; (2) prioritize municipal outreach for sites identified under chapter 21E to
163 neighborhoods with environmental justice populations; (3) incorporate environmental justice as a
164 criterion for awarding technical assistance grants to non-profit organizations; (4) prioritize
165 technical assistance to environmental justice populations in neighborhoods with hazardous waste
166 sites identified under chapter 21E; (5) communicate with the list of community-based
167 organizations in neighborhoods where environmental justice populations reside in addressing
168 compliance matters; (6) consider environmental justice as a factor in establishing priorities for
169 activity use limitation audits under chapter 21E; (7) incorporate environmental justice as a
170 criterion in prioritizing the investigation of sites, negotiating cost recovery under chapter 21E;
171 (8) provide for commensurate cost recovery to municipalities for “back taxes” (exclusive of
172 interest and penalties) on sites identified under said chapter 21E and located in neighborhoods

173 where environmental justice populations reside; and (9) meet regularly with the executive office
174 of environmental affairs and the department of public health to coordinate on environmental
175 issues potentially affecting public health, including matters related to exposures from multiple
176 sources of pollution.

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