

HOUSE No. 3200

The Commonwealth of Massachusetts

PRESENTED BY:

James M. Murphy

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 adoption of the accompanying bill:

An Act requiring executive agency liability.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>James M. Murphy</i>	<i>4th Norfolk</i>	<i>1/12/2023</i>

HOUSE No. 3200

By Representative Murphy of Weymouth, a petition (accompanied by bill, House, No. 3200) of James M. Murphy relative to executive agency liability in the construction of, or events involving, natural gas pipelines or natural gas compressor stations. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act requiring executive agency liability.

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: Chapter 164 of the General Laws is hereby amended by inserting after Section
2 1K, the following section:

3 SECTION 1: Definitions

4 (a) Attorney General: The Attorney General of the Commonwealth of Massachusetts

5 (b) Department of Environmental Protection: The Department of Environmental
6 Protection as authorized and created under Chapter 21A of the General Laws of the
7 Commonwealth of Massachusetts

8 (c) Department of Public Utilities: The Department of Public Utilities and authorized and
9 created under Chapter 25 of the General Laws of the Commonwealth of Massachusetts

10 (d) Wanton and reckless behavior: when a person is aware of and consciously disregards
11 a substantial and unjustifiable risk that their acts, or omissions where there is a duty to act, would
12 result in serious bodily injury or substantial risk to residents of the Commonwealth of
13 Massachusetts

14 (e) License: Any license or permit issued by an Agency of the Commonwealth of
15 Massachusetts

16 (f) Natural Gas Compressor Station: Any facility that compresses or directly assists with
17 the compression or transportation of natural gas

18 (g) Natural Gas Pipeline: Any pipes that transport, or directly assist with the compression
19 or transportation of natural gas

20 (h) Official act: Any decision or action in a particular matter of processing a license or
21 permit application.

22 (i) Official responsibility: The direct administrative or operating authority, whether
23 intermediate or final, and either exercisable alone or with others, and whether personal or
24 through subordinates, to approve, disapprove or otherwise direct agency action.

25 (j) Participate: Participate in agency action or in a particular matter personally and
26 substantially as a state, employee, through approval, disapproval, decision, recommendation, the
27 rendering of advice, investigation or otherwise.

28 (k) Public Emergency: Any event involving a natural gas pipeline or natural gas
29 compressor station which causes substantial harm to people of the Commonwealth of
30 Massachusetts including but not limited to explosions, fires, evacuation of communities,

31 substantial harm to property, substantial public health impacts, or otherwise has impacts that
32 significantly disrupt the lives of people and businesses in the Commonwealth of Massachusetts

33 (l) Public Employee: A person performing services for or holding an office, position,
34 employment, or membership in a state agency, whether by election, appointment, contract of hire
35 or engagement, whether serving with or without compensation, on a full, regular, part-time,
36 intermittent, or consultant basis.

37 SECTION 2: If the construction of a natural gas pipeline or natural gas compressor
38 station results in a public emergency, and the construction of the natural gas pipeline or natural
39 gas compressor station required a license, permit, or other official act as a result of the official
40 responsibility of the Department of Environmental Protection or Department of Public Utilities,
41 the Attorney General of the Commonwealth of Massachusetts shall convene an investigation into
42 the licensing and permitting process and any official actions taken by the Department of
43 Environmental Protection or Department of Public Utilities. The Attorney General shall
44 determine if, during the course of this process, the Department(s) had official responsibility
45 regarding the official act to issue permits or licenses and willfully ignored significant risk to the
46 public safety, the public health, and the wellbeing of the people of the Commonwealth of
47 Massachusetts when performing an official act to issue a license for a natural gas pipeline or
48 natural gas compressor station.

49 If it is found that the Department of Environmental Protection or Department of Public
50 Utilities and public employees under their purview engaged in negligent or wanton and reckless
51 behavior, any public employee which had official responsibility regarding the official act to issue
52 permits or licenses shall be civilly liable and subject to damages.

53 For the purposes of this section, wanton or reckless behavior shall be based on an
54 employee's participation in official actions taken through the Department of Environmental
55 Protection or Department of Public Utilities as a result of their official responsibilities to make a
56 determination on permits or licenses for natural gas pipelines or natural gas compressor stations
57 and the judgement shall be made absent consideration of federal laws as justification for issuing
58 licenses and permits.

59 Any public employee which had official responsibility regarding the official act to issue
60 permits or licenses of a natural gas compressor station who is found to have acted negligently in
61 the issuance of said permits or licenses shall be subject to damages under Chapter 229 of the
62 General Laws of the Commonwealth of Massachusetts.