

The Commonwealth of Massachusetts

PRESENTED BY:

Adrian C. Madaro

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 relative to environmental justice in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Adrian C. Madaro	1st Suffolk
Joseph A. Boncore	First Suffolk and Middlesex
Maria Duaiame Robinson	6th Middlesex
Brian W. Murray	10th Worcester
Ruth B. Balser	12th Middlesex
Thomas M. Stanley	9th Middlesex
Christina A. Minicucci	14th Essex
Mike Connolly	26th Middlesex
Carmine Lawrence Gentile	13th Middlesex
Walter F. Timilty	Norfolk, Bristol and Plymouth
Jack Patrick Lewis	7th Middlesex
Jason M. Lewis	Fifth Middlesex
David M. Rogers	24th Middlesex
Christopher M. Markey	9th Bristol
Carolyn C. Dykema	8th Middlesex
Christine P. Barber	34th Middlesex
Jennifer E. Benson	37th Middlesex
Denise Provost	27th Middlesex

<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>John J. Mahoney</i>	<i>13th Worcester</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>
<i>Sean Garballay</i>	<i>23rd Middlesex</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>
<i>Daniel R. Cullinane</i>	<i>12th Suffolk</i>
<i>Daniel R. Carey</i>	<i>2nd Hampshire</i>
<i>William J. Driscoll, Jr.</i>	<i>7th Norfolk</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>
<i>Bradford Hill</i>	<i>4th Essex</i>

<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Chynah Tyler</i>	<i>7th Suffolk</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>

HOUSE No. 826

By Mr. Madaro of Boston, a petition (accompanied by bill, House, No. 826) of Adrian C. Madaro and others relative to environmental equity in the location of power plants, highways, and airports. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to environmental justice in the Commonwealth.

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. Section 62 of Chapter 30 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by inserting the following definitions after the definition of
3 "Agency":

4 "Environmental Justice," the right to be protected from environmental pollution and to
5 live in and enjoy a clean and healthful environment regardless of race, income, national origin, or
6 English language proficiency. Environmental justice shall include the equal protection and
7 meaningful involvement of all people with respect to the development, implementation, and
8 enforcement of environmental laws, regulations, and policies and the equitable distribution of
9 environmental benefits and burdens.

10 "Environmental Benefits," access to funding, open space (including parks, playgrounds,
11 and other outdoor recreational opportunities), enforcement, technical assistance, training, and

12 other beneficial resources disbursed by the executive secretariats and their agencies and offices,
13 and provided by municipalities and regional entities.

14 "Environmental Burdens," environmental pollution from industrial, commercial, state,
15 and municipal operations and roadways, contaminated properties, and air, water, and drinking
16 water pollution that is greater than the state average or a violation of federal or state law.

17 "Environmental Justice Population," a neighborhood that meets one or more of these
18 criteria: a) the annual median household income is equal to or less than 65 percent of the
19 statewide median, b) minorities comprise 25 percent or more of the population, or c) 25 percent
20 or more of households lack English language proficiency. Where a neighborhood does not meet
21 any of those criteria, but a geographic portion of that neighborhood meets at least one of those
22 criteria, the Secretary may designate that geographic portion as an environmental justice
23 population upon petition of at least 10 residents of that geographic portion. The Secretary may
24 remove the environmental justice population designation of a neighborhood that meets one or
25 both of these criteria: a) 25 percent or more of the households lack English language proficiency
26 or b) minorities comprise 25 percent or more of the population, upon a finding that the annual
27 median household income in that neighborhood is greater than 125 percent of the statewide
28 median household income, that a majority of persons of age 25 and above in that neighborhood
29 have at least a college education, and that the neighborhood does not bear an unfair burden of
30 environmental pollution and does not have only limited access to natural resources such as
31 waterfronts, parks and open space, and water resources.

32 "Equal Protection," that no group of people, because of race, ethnicity, class, gender, or
33 handicap bears an unfair share of environmental pollution from industrial, commercial, state and

34 municipal operations or has limited access to natural resources, including waterfronts, parks and
35 open space, and water resources.

36 "Lacking English Language Proficiency" refers to households that, according to federal
37 census forms, do not have an adult proficient in English.

38 "Neighborhood," a census block group as defined by the U.S. Census Bureau but not
39 including people who live in college dormitories or people under formally authorized, supervised
40 care or custody such as federal or state prisons.

41 SECTION 2. Section 62B of Chapter 30 of the General Laws is hereby amended by
42 deleting the first sentence of the third paragraph and inserting, in its place, the following
43 sentence:

44 An environmental impact report shall contain statements describing the nature and extent
45 of the proposed project; potential environmental impacts and public health impacts, resulting
46 from the construction and operation of the proposed project; proposed studies or program of
47 studies designed to evaluate potential environmental impacts and public health impacts; all
48 measures being utilized to minimize environmental damage and public health damage; any
49 adverse short-term and long-term environmental consequences and public health consequences
50 that cannot be avoided should the project be undertaken; and reasonable alternatives to the
51 proposed project and their environmental consequences and public health consequences.

52 SECTION 3. Section 62B of Chapter 30 of the General Laws is hereby amended by
53 inserting the following paragraph after the last paragraph:

54 An environmental impact report shall include an enhanced analysis of impacts and
55 mitigation for any project located in or within one mile of an environmental justice population,
56 and within five miles of an environmental justice population for a project that exceeds an
57 Environmental Notification Form threshold for air. An enhanced analysis shall include, at a
58 minimum, analysis of multiple air impacts; data on baseline public health conditions within the
59 affected environmental justice population; analysis of technological, site planning, and
60 operational alternatives to reduce or eliminate impacts; and proposed on-site and off-site
61 mitigation measures to reduce multiple impacts and increase environmental benefits for the
62 affected environmental justice population and to further environmental justice and equal
63 protection for that population. Such enhanced analysis shall include the cumulative impacts or
64 the project.

65 SECTION 4. Section 62C of chapter 30 of the General Laws is hereby amended by
66 inserting after the first paragraph, following the word “documents” the following paragraphs:

67 To enable the public to participate in decisions that affect their health and safety and the
68 environment, the Secretary shall maximize opportunities for public involvement. Such
69 opportunities shall encourage consultation with the public early in the application processes to
70 foster a robust analysis and the active involvement of the interested or affected persons. In cases
71 where the proposed project has the potential to impact an environmental justice population
72 lacking English language proficiency, said environmental impact report shall be in English and
73 in any other language spoken by a significant number of the environmental justice population,
74 describing the proposed facility and its location, the range of potential environmental and health
75 impacts of each pollutant, the application and review process, and a contact person, with phone
76 number and address, from whom information will be available as the application proceeds.

77 There shall be enhanced public participation for any project located in or within one mile
78 of an environmental justice population, and within five miles of an environmental justice
79 population for a project that exceeds a mandatory Environmental Impact Report threshold for air.
80 Enhanced public participation may include use of alternative media such as community and
81 ethnic newspapers and other media, use of alternative information repositories, and translation of
82 materials or interpretation services prior to and during public meetings where a significant
83 portion of the relevant environmental justice population uses a primary language other than
84 English in their home. When scheduling public meetings, the Secretary shall recommend and
85 may require that project proponents consider the time of the meeting, availability of public
86 transportation, and whether the locations are child-friendly and culturally appropriate. To the
87 extent feasible, meetings should be held in places that community members already routinely use
88 and feel comfortable visiting. Additionally, the Secretary shall recommend that project
89 proponents consider whether outreach efforts should include an educational component to ensure
90 that community members have the information necessary to evaluate a project's potential
91 impacts.

92 SECTION 5. Section 62E of Chapter 30 of the General Laws is hereby amended by
93 adding, after the first paragraph, the following paragraph:

94 However, no agency shall exempt any project located in an environmental justice
95 population and reasonably likely to cause damage to the environment, as defined in section 61,
96 from the provisions of sections 62 to 62H, inclusive. This paragraph shall not apply to
97 emergency actions essential to avoid or eliminate a threat to public health or safety, or a threat to
98 any natural resources, undertaken in compliance with section 62F.

99 SECTION 6. The Secretary shall, not later than 180 days after this act takes effect,
100 promulgate regulations for the requirements, administration, and enforcement of this act.

101 SECTION 7. To further environmental justice, the Department of Environmental
102 Protection shall establish and maintain a Supplemental Environmental Project (SEP) bank. Such
103 bank shall maintain an inventory of environmentally beneficial projects in communities with
104 environmental justice populations that may be funded by violators in lieu of or in addition to
105 paying penalties associated with the settlement of enforcement actions. SEPs shall conform to
106 the Department's policy on Supplemental Environmental Projects, ENF-07.001, as amended.
107 The Department shall establish and maintain a website portal where the public and potential SEP
108 recipients may submit potential SEP projects to be considered for future settlements. For
109 purposes of this provision, a supplemental environmental project is an environmentally
110 beneficial project the implementation of which primarily benefits public health, safety and
111 welfare, and the environment.