

SENATE No. 2579

Text of amendment #5 (Senator Moore) to the House bill relative to immediate COVID-19 recovery needs (House, No. 4234).

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

1 SECTION XX. The first paragraph of section 13A of chapter 22 of the General Laws, as
2 appearing in the 2018 Official Edition, is hereby amended by striking out the second and third
3 sentences and inserting in place thereof the following 3 sentences:-

4 “Two of the appointive members shall be architects licensed to practice in the
5 commonwealth. One of the appointive members shall be a licensed building inspector. Three of
6 the appointive members shall be selected after consultation with advocacy groups on behalf of
7 persons with disabilities”

8 SECTION XX. The first paragraph of section 13A of chapter 22 of the General Laws, as
9 so appearing, is hereby further amended by striking out the fourth paragraph, in lines 38 through
10 63, and inserting in place thereof the following four paragraphs:-

11 The board shall make and from time to time alter, amend, and repeal, in accordance with
12 the provisions of chapter thirty A, rules and regulations designed to make multiple dwellings,
13 and public buildings and facilities, including but not limited to areas that are not generally in
14 public use, accessible to, functional for and safe for use by persons with disabilities. The board
15 shall also make rules and regulations requiring that any person who has lawful control of

16 improved or enclosed private property used as off-street parking areas where the public has a
17 right of access as invitees or licensees, shall reserve parking spaces in said off-street parking
18 areas for vehicles authorized to display handicapped plates or placards under section 2 of chapter
19 90; provided, that the parking requirements shall be consistent with the Americans with
20 Disabilities Act Standards for Accessible Design. The parking spaces reserved for vehicles of
21 such handicapped persons shall be clearly marked as such.

22 The rules and regulations of the board shall also establish standards and procedures
23 designed to make adaptable for persons with physical disabilities for any building, regardless of
24 the date of construction, (1) all dwelling units in multiple dwellings equipped with an elevator;
25 (2) all ground floor dwelling units in multiple dwellings not equipped with an elevator; and (3)
26 all public use and common use portions of such multiple dwellings, providing however, that in
27 any building constructed before March thirteenth, nineteen hundred and ninety one, such
28 standards and procedures for dwelling units shall apply only to such units within (1) any non-
29 residential building undergoing a gut rehabilitation as part of a change in use into a multiple
30 dwelling facility, or (2) any residential building which is vacant undergoing a gut rehabilitation.

31 The rules and regulations of the board shall establish standards and procedures designed
32 to make accessible to, functional for and safe for use by persons with physical disabilities
33 residential buildings whenever constructed and without the restrictions in the above paragraph.
34 Unless otherwise specified, five percent of the units in lodging or residential facilities for hire,
35 rent or lease, containing twenty or more units, shall meet this requirement; provided, however,
36 that accessible units shall allow five feet of turning radius for a wheelchair in the kitchens and
37 bathrooms. In the event that the board determines that the need, in certain areas of the
38 commonwealth, for such units either exceeds or does not require said five percent, the board may

39 require that, in said areas a percentage of units less than five percent or not greater than ten
40 percent be accessible and safe for persons with disabilities; provided, however, that said
41 accessible units shall allow five feet of turning radius for a wheelchair in the kitchens and
42 bathrooms. The board may make such determination only if there is sufficient factual basis,
43 using data from the central registry of the Massachusetts Rehabilitation Commission and other
44 sources, to establish with a reasonable degree of certainty the present and future needs for said
45 accessible units in certain areas of the commonwealth. A percentage of less than five percent
46 shall not be established unless such accessible units, which are not needed by persons with
47 disabilities cannot be readily hired, rented, or leased to other persons.

48 The rules and regulations of the board shall include, but not be limited to, detailed
49 architectural standards further defining adaptable and accessible dwelling units, and such other
50 provisions necessary to provide rights and remedies substantially equivalent to or greater than
51 the rights and remedies provided by the Federal Fair Housing Act, the Department of Justice's
52 Americans with Disabilities Act Standards for Accessible Design and regulations thereunder as
53 they pertain to such multiple dwellings.

54 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
55 amended by striking out, in lines 11 and 12, the words "in behalf of the physically handicapped"
56 and inserting in place thereof the following words:-

57 "on behalf of persons with disabilities".

58 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
59 amended by inserting after the word "buildings", in line 67, the following words:-

60 "and facilities".

61 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
62 amended by inserting after the word “buildings”, in line 75, the following words:-

63 “and facilities”.

64 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
65 amended by striking out, in lines 80 and 81, the words “handicapped persons,” and inserting in
66 place thereof the following words:-

67 “persons with a disability”.

68 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
69 amended by striking out, in lines 88 and 89 the word “newspaper” and inserting in place thereof
70 the following words:-

71 “forms of”.

72 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
73 amended by inserting after the word “building”, in line 93, the following words:-

74 “or facility, including Areas not generally in Public Use”

75 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
76 amended by inserting after the word “building”, in line 94, the following words:-

77 “or facility”.

78 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
79 amended by inserting after the word “changed to a”, in line 94, the following words:-

80 “residential use or a”.

81 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
82 amended by inserting, in line 94, after the words “which the building” the following words:-

83 “or facility.”

84 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
85 amended by inserting after the word “building”, in line 96, the following words:-

86 “or facility”.

87 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
88 amended by striking out, in lines 102 and 103, the words “physically handicapped persons” and
89 inserting in place thereof the following words:-

90 “persons with a disability”.

91 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
92 amended by striking out the eighth paragraph, consisting of lines 107 through 127.

93 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
94 amended by striking out, in lines 131 and 132, the word “person” and inserting in place thereof
95 the following words:-

96 “building, or portion thereof,”.

97 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
98 amended by inserting after the words “for a building”, in line 150, the following words:-

99 “or facility”.

100 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
101 amended by inserting after the word “building”, in line 166, the following word:-

102 “, facility”.

103 SECTION XX. Said section 13A of said chapter 32, as so appearing, is hereby further
104 amended by striking out, in lines 177, 179 and 187 the words “physically handicapped persons”
105 and inserting in place thereof, in each instance, the following words:-

106 “persons with a disability”.

107 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
108 amended by inserting after the definition of “Alteration”, the following definition:-

109 “Areas that are not generally in public use,” areas not intended for use by the public, as
110 designated in the 1991 and 2010 Americans with Disabilities Act (ADA) Standards for
111 Accessible Design, and employee work areas.

112 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
113 amended by inserting after the definition of “Construction” the following definitions:-

114 “Employee work area” all or any portion of a space used only by employees and used
115 only for work. Corridors, toilet rooms, kitchenettes and break rooms are considered “employee
116 work areas” and shall be made accessible in new construction, or where renovation work being
117 performed is otherwise subject to the jurisdiction of the Board. Corridors, toilet rooms,
118 kitchenettes and break rooms are not otherwise considered “employee work areas;” provided
119 however, that where corridors, toilet rooms, kitchenettes and break rooms constitute the path of

120 travel to or are essential to the use of employees for work, they shall be, when possible,
121 adaptable.

122 “Facility”, all or any portion of a building, structure, site improvement, complex,
123 equipment, road, walk, passageway, parking lot or other real or personal property, including the
124 site where the building, property, structure or equipment is located.”

125 “Gut rehabilitation,” the general replacement of the interior of a building that may or
126 may not include changes to structural elements such as flooring systems, columns or load
127 bearing interior or exterior walls.

128 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
129 amended by striking out the definition of “Public building” and inserting in place thereof the
130 following definition:-

131 “Public building”, buildings constructed by the commonwealth or any political
132 subdivision thereof with public funds and open to public use, including, but not limited to, those
133 constructed by public housing authorities, the Massachusetts Port Authority, the Massachusetts
134 Parking Authority, the Massachusetts Department of Transportation, the Massachusetts Bay
135 Transportation Authority, or building authorities of any public educational institution, or their
136 successors; and privately financed buildings that are open to and used by the public, including
137 but not limited to places of public accommodation listed in section 92A of chapter 272 of the
138 General Laws, and 42 U.S.C. section 12181(7).

139 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
140 amended by striking out, in line 200, the words “Physically handicapped person” and inserting in
141 place thereof the following words:-

142 “Person with a disability”.

143 SECTION XX. Said section 13A of said chapter 22, as so appearing, is hereby further
144 amended by striking out, in line 204, the words “Physically handicapped persons” and inserting
145 in place thereof the following words:-

146 “A person with a disability.”

147 SECTION XX. Not later than ninety days after the effective date of this act, the
148 Architectural Access Board shall promulgate regulations as necessary pursuant to this act’s
149 amendments of Chapter 22, section 13A.