

By Mr. Goyette of New Bedford, petition of Roger R. Goyette and Louis R. Nickinello that provision be made to control the transportation of hazardous materials. Public Safety.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Two.

AN ACT TO PROVIDE FOR CONTROL OF THE TRANSPORTATION OF HAZARDOUS MATERIALS.

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. Findings. The General Court finds that:

2 (a) Increasing amounts of hazardous wastes and other hazard-
3 ous materials move through the Commonwealth on a regular basis.

4 (b) The protection of public health and safety, property, and the
5 environment necessitates adequate and reasonable safeguards for
6 the transportation of hazardous materials through the Common-
7 wealth.

8 (c) Ineffective and inadequate supervision and regulation of the
9 transportation of hazardous materials through the Common-
10 wealth results from diffusion of the authority for this supervision
11 and regulation over different state and federal offices and agencies.

1 SECTION 2. Declaration. The General Court declares that the
2 public interest requires establishment of one centralized office in
3 the Commonwealth to supervise and regulate all aspects of the
4 transportation of hazardous materials.

1 SECTION 3. Section 19 of chapter 6A of the General Laws, as
2 amended by section 3 of chapter 704 of the acts of 1969, section 2 of
3 chapter 114I of the acts of 1973, and section 9 of chapter 806 of the
4 acts of 1974, is hereby amended by inserting after "an outdoor
5 advertising board;" the following phrase: "The office for the trans-
6 portation of hazardous materials;"

1 SECTION 4. Chapter 21C of the General Laws, as amended by
2 section 2 of Chapter 704 of the acts of 1979 (the Massachusetts
3 Hazardous Waste Management Act), is hereby amended by strik-
4 ing all references to the transportation of hazardous wastes and by
5 inserting after section 4 the following section:

6 *Section 4A.* The office of the transportation of hazardous
7 materials in the executive office for transportation and construc-
8 tion, as described in chapter 21D, shall have sole and exclusive
9 jurisdiction over all aspects of the transportation of all hazardous
10 wastes and all other hazardous materials. Chapter 21D supersedes
11 all provisions of this chapter inconsistent with this grant of sole and
12 exclusive jurisdiction over transportation.

1 SECTION 6. The General Laws are hereby amended by insert-
2 ing after chapter 21C the following chapter:

3 CHAPTER 21D

4 *Section 1. Title.* This chapter shall be titled the "Massachusetts
5 Hazardous Materials Transportation Control Act."

6 *Section 2. Definitions.* For the purposes of this act:

7 "Director" means the director of the office for the transportation
8 of hazardous materials.

9 "DOT" means the United States Department of Transportation.

10 "EPA" means the United States Environmental Protection
11 Agency.

12 "Executive office" means the executive office of transportation
13 and construction.

14 "Hazardous material" means a substance or material which the
15 U.S. Secretary of Transportation has designated as capable of
16 posing an unreasonable risk to health, safety and property when
17 transported in commerce. This designation must appear in the
18 Department of Transportation Hazardous Materials Table and
19 Hazardous Materials Communications Regulations.

20 "Hazardous waste" means industrial end products, designated in
21 EPA regulations which may:

22 (a) significantly contribute to increases in mortality or serious
23 irreversible or incapacitating reversible illness;

24 (b) pose a hazard to human health, safety, or welfare; or

25 (c) pose a hazard to the environment when improperly man-
26 aged.

27 "Office" means the office for the transportation of hazardous
28 materials and its staff.

29 "Secretary" means the secretary of the executive office of trans-
30 portation and construction.

31 *Section 3. Creation of the Office.* The secretary shall establish
32 an office for the transportation of hazardous materials within the
33 executive office. A director, appointed by the secretary, shall pre-
34 side over the office. The director shall possess training and expe-
35 rience in the area of transportation and government administra-
36 tion. The director shall, subject to appropriation and with the
37 approval of the secretary, employ the expert and technical and
38 clerical employees necessary to fulfill the responsibilities and carry
39 out the duties of the office.

40 *Section 4. Responsibilities.* The office shall have responsibility
41 for the following duties:

42 (a) development of a comprehensive and uniform program for
43 the supervision and regulation of the transportation of all hazard-
44 ous materials. The office shall design this program to meet the
45 specific needs of the Commonwealth.

46 (b) sole and exclusive jurisdiction over the transportation of
47 hazardous materials through the Commonwealth.

48 (c) incorporation and enforcement of existent federal standards
49 regarding the transportation of hazardous materials as set forth in
50 the Hazardous Materials Transportation Act of 1975 and the
51 Resource Conservation and Recovery Act of 1976 and the regula-
52 tions promulgated under those acts, into the regulatory program
53 described in part (a) of this section.

54 (d) development of any rules, regulations, standards, and proce-
55 dures necessary to develop the comprehensive regulatory program
56 described in part (a) of this section. This office shall develop rules,
57 regulations, standards and procedures consistent with, and to the
58 extent permitted by federal law and regulations.

59 (e) supervision and regulation of the following aspects of the
60 transportation of hazardous materials, including but not limited
61 to:

- 62 (i) designation of substances as hazardous materials;
63 (ii) licensing of competent carriers of hazardous materials;
64 (iii) packing, repacking, handling, labeling, testing, repairing,

65 and maintaining containers used to carry hazardous materials;
66 (iv) identification, placarding and routing of hazardous mate-
67 rials; and

68 (v) emergency procedures in event of a spill.

69 *Section 5. Adoption of Existent Federal and State Standards*
70 *and Requirements.*

71 (a) The office shall maintain state authority to the extent per-
72 mitted by the federal Hazardous Materials Transportation Act of
73 1975 and the Resource Conservation and Recovery Act of 1976
74 and the regulations promulgated under those acts.

75 (b) The office shall adopt the standards, procedures and regula-
76 tions developed by the division of hazardous wastes within the
77 department of environmental quality engineering regarding the
78 transportation of hazardous wastes. The office may amend or
79 strike any standards, procedures, or regulations developed by the
80 division of hazardous wastes in order to fulfill its responsibilities as
81 set forth in section 3 of this chapter.

82 *Section 6.* Upon enactment of this chapter, the office will as-
83 sess, compile, and publish a list of recommended regulatory meas-
84 ures. The office will hold public hearings on these recommenda-
85 tions as provided by the Massachusetts State Administration
86 Procedures Act.

87 *Section 7. Preemption.*

88 (a) No provision of this chapter preempts federal authority over
89 the transportation of hazardous materials.

90 (c) This chapter invalidates all local regulations and authorities
91 concerning the transportaiton of hazardous materials, unless the
92 office expressly authorizes otherwise.

93 *Section 8. Reviewability.* Two years after enactment of this
94 legislation and every two years thereafter, the secretary of the
95 executive office shall, with the aid of the director, report in writing
96 to the general court committee on post audit and oversight. This
97 report shall detail the office's functions, progress, and fulfillment
98 of the responsibilities described in section 3 of this chapter.

99 *Section 9. Severability.* If any provision or clause of this act or
100 application thereof to any person or circumstances is held invalid,
101 such invalidity shall not affect other provisions or applications of
102 this act which can be given effect without the invalid provision or
103 application, and to this end the provisions of this chapter are
104 declared to be severable.