

By Mr. Silva of Gloucester, petition of Richard R. Silva and Thomas C. Norton relative to establishing a litter control program. Natural Resources and Agriculture.

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## The Commonwealth of Massachusetts

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

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### AN ACT ESTABLISHING A LITTER CONTROL PROGRAM.

1     *Whereas*, The deferred operation of this act would tend to  
2 defeat its purpose, which is to provide for immediate cleanup of the  
3 commonwealth's public ways, therefore it is hereby declared to be  
4 an emergency law, necessary for the immediate preservation of the  
5 public health, safety, and convenience.

*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. Legislative findings; purpose; intent.

2     The General Court find that the population of Massachusetts is  
3 increasingly requiring vigilance on the part of government to pro-  
4 tect the public health and safety as well as maintain a healthful,  
5 clean and beautiful environment. The proliferation and accumula-  
6 tion of litter discarded throughout the state impairs these objec-  
7 tives and constitutes a public hazard, and in addition, litter tends to  
8 damage the economy of the state by making it less attractive to  
9 tourists, and newcomers. There is an imperative need to anticipate,  
10 plan for, and accomplish effective litter control through a state-  
11 developed and coordinated plan of education, control, prevention  
12 and elimination.

13     The General Court declares that it is the purpose of this act to  
14 accomplish litter control throughout the state by delegating and  
15 vesting in the department of environmental management authority  
16 to conduct a continuous program to control, prevent and eliminate

17 litter from the state to the maximum practicable extent. Every  
18 department of the state government and all governmental agencies  
19 and units of the commonwealth shall cooperate with the depart-  
20 ment in the administration and enforcement of this chapter.

21 This act is intended to add to and to coordinate existing litter  
22 control and removal efforts, and not to terminate existing efforts  
23 nor, except as specifically stated, to repeal or affect any state law  
24 governing or prohibiting litter or the control and disposition of  
25 waste.

1 SECTION 2. Definitions — As used in this act.

2 “Department” means the department of environmental manage-  
3 ment.

4 “Disposal package or container” means all packages or contain-  
5 ers intended or used to contain solids, liquids or materials and so  
6 designated.

7 “Litter” means all waste material including but not limited to  
8 disposable packages or containers but not including radioactive  
9 waste, hazardous waste or the wastes of the primary processes of  
10 mining, logging, sawmilling, farming or manufacturing.

11 “Litter receptacle” means those containers acceptable to the  
12 department and which may be standardized as to size, shape,  
13 capacity and color, as well as any other receptacles suitable for the  
14 disposition of litter.

15 “Person” means any natural person, corporation, partnership,  
16 association, firm, receiver, guardian, trustee, executor, administra-  
17 tor, fiduciary, or representative or group of individuals or entities  
18 of any kind.

19 “Public place” means any area that is used or held out for use by  
20 the public whether owned or operated by public or private inter-  
21 ests.

22 “Sold within the State” or “sales of the business within the state”  
23 means all sales of retailers engaged in business within the state and  
24 all sales of products for use and consumption within the state in the  
25 case of manufacturers or wholesalers.

1 SECTION 3. Rules and regulations. In addition to its other  
2 powers and duties, the department shall have the power to propose

3 and to adopt rules and regulations necessary to carry out the  
4 provisions, purposes and intent of this act. Said regulations shall  
5 be promulgated pursuant to and in accordance with the adminis-  
6 trative procedures act, chapter thirty A of the General Laws.

1 SECTION 4. Data retrieval; litter surveys.

2 The department shall obtain such information as is available on  
3 the current amounts of litter on the public highways, recreation  
4 lands, and urban areas within the commonwealth. The products  
5 whose package, wrappings and containers constitute litter shall  
6 include, but not be limited to the following categories: food for  
7 human or pet consumption, groceries, cigarettes and tobacco pro-  
8 ducts, wine, newspapers and magazines, paper products and house-  
9 hold paper, glass containers, metal containers, plastic or fiber  
10 containers made of synthetic materials, cleaning agents and toile-  
11 tries, nondrug drugstore sundry products, distilled spirits and  
12 motor vehicle parts.

13 The department shall distribute and/or grant funds to enable  
14 public or private agencies to conduct surveys on a sufficiently  
15 regular basis to provide meaningful measurement of the amount  
16 and composition of litter and rate of littering. In addition, the  
17 department shall continue to retrieve such data as is made available  
18 on the amount and composition of litter and rate of littering within  
19 the commonwealth.

1 SECTION 5. License.

2 Every person engaged in business within the state as a manufac-  
3 turer, wholesaler, distributor or retailer of the products enumerat-  
4 ed in section four of this act, is hereby required to obtain a license  
5 for each establishment from which such business is conducted. For  
6 the purposes of this license, a vending machine shall not be deemed  
7 a separate establishment and any person engaged in the business of  
8 selling goods, wares and merchandise through the use of coin-oper-  
9 ated machines shall be required to obtain a license only with  
10 respect to each establishment for which goods, wares, or merchan-  
11 dise are stored, kept, or assembled for supplying such vending  
12 machines.

13 The license specified in this section will be obtained in a manner  
14 promulgated by the executive office for administration and fi-  
15 nance.

16 The license will be valid for a period of one year from the date of  
17 issue.

18 There will be an annual licensing fee to be established by the  
19 Executive office for administration and finance. All proceeds from  
20 said licensing fee will be deposited in the general fund. Said com-  
21 missioner shall annually recommend an appropriation not less  
22 than five hundred thousand dollars, which shall be used for the  
23 purposes set forth in this act.

24 Any person engaged in business within the state as a manufac-  
25 turer, wholesaler, distributor or retailer of products enumerated in  
26 section four of this act, who fails to obtain and maintain a valid  
27 license as specified by this section, will be fined fifty dollars for each  
28 day of violation.

1 SECTION 6. Eligibility for funds. The department shall adopt  
2 guidelines for the determination of eligibility of public and private  
3 agencies and persons to receive funds pursuant to sections one to  
4 twelve of this act, and the determination of qualification and  
5 suitability of plans submitted by such agencies and persons consist-  
6 ent with the purposes set forth in sections one to twelve of this act.

1 SECTION 7. Allocation of funds.

2 The commissioner of the department, or his designate, shall  
3 allocate and distribute funds for the following activities:

4 1. Programs of public education, motivation, and participation,  
5 aimed at creating an ethic conducive to the reduction of litter,  
6 establishing an attitude against littering and a desire for a clean  
7 environment, and securing greater awareness of and compliance  
8 with anti-litter laws. Such programs shall include, but not be  
9 limited to:

10 a. The distribution of informative materials to elementary and  
11 secondary schools;

12 b. The purchase and erection of roadside signs;

13 c. The organization and operation of cleanup drives conducted  
14 by local agencies and organizations using volunteer help;

15 d. Grants to state and local government units and agencies and  
16 private organizations for developing and conducting anti-litter  
17 programs; and

18 e. Any other public information method selected by the depart-  
19 ment, including the use of media;

20 2. Cleanup of public highways, waterways, and recreation  
21 lands, urban areas, and public places within the State, including  
22 but not limited to the following:

23 a. Grants to cities and counties for payment of personnel em-  
24 ployed in the pickup of litter;

25 b. Grants for programs aimed at increasing the use of youth and  
26 unemployed persons in seasonal and part-time litter pickup pro-  
27 grams and to establish work release and other programs to carry  
28 out the purposes of sections one to eleven of this act;

29 c. Grants to public and private agencies and persons to conduct  
30 surveys of amounts and composition of litter and rates of littering;  
31 and

32 d. Grants to public and private agencies and persons for re-  
33 search and development in the fields of litter reduction, removal,  
34 and disposal, including the evaluation of behavioral science tech-  
35 niques in litter control and the development of new equipment, and  
36 to implement such research and development when appropriate;  
37 and

38 3. New or improved community recycling and source separa-  
39 tion programs, including but not limited to:

40 a. Expansion of existing and creation of new community recy-  
41 cling centers;

42 b. Expansion of existing and creation of new source separation  
43 programs;

44 c. Research and evaluation of markets for the material and  
45 products recovered in source separation and recycling programs;  
46 and

47 d. Providing advice and assistance on matters relating to recy-  
48 cling and source separation including information and consulta-  
49 tion on available technology, operating procedures, organizational  
50 arrangements, markets for materials and products recovered in  
51 recycling and source separation, transportation alternatives, and  
52 publicity techniques.

1 SECTION 8. Conditions of receiving and retaining grants.  
2 The department shall require recipients of grants under section  
3 seven of this act, as a condition of receiving and retaining them, to:  
4 Create a separate account for the grants received for a program  
5 performed under this act; make expenditures from the account  
6 exclusively for the purposes for which the grants were received; use  
7 whatever auditing and accounting practices the department con-  
8 siders necessary regarding the account; and use grants received to  
9 supplement and not to replace any existing funding for such pur-  
10 poses.

1 SECTION 9. Enforcement of chapter. The department may  
2 designate its trained employees to be vested with powers to enforce  
3 and administer the provisions of this chapter and all rules and  
4 regulations adopted hereunder. The department shall also have the  
5 authority to contract with other state and local governmental  
6 agencies having law enforcement powers for services and personnel  
7 reasonably necessary to carry out the provisions of this act. In  
8 addition, all law-enforcement officers in the commonwealth of  
9 Massachusetts and those employees of the department of fisheries,  
10 wildlife and recreational vehicles vested with police powers shall  
11 enforce the provisions of this act and all rules and regulations  
12 adopted hereunder and are hereby empowered to arrest, without  
13 warrant, persons violating any provisions of this act or any of the  
14 rules and regulations adopted hereunder. All the foregoing en-  
15 forcement officers may serve and execute all warrants and other  
16 process issued by the courts in enforcing the provisions of this act  
17 and rules and regulations adopted hereunder.

1 SECTION 10. Litter receptacles; placement; penalty for viola-  
2 tions.

3 The department shall promulgate regulations establishing rea-  
4 sonable guidelines for the owners or persons in control of any prop-  
5 erty which is held out to the public as a place for assemblage, the  
6 transaction of business, recreation or as a public way who may be  
7 required to place and maintain receptacles acceptable to the de-  
8 partment.

9 In formulating such regulations the department shall consider  
10 among other public places the public highways of the state, all

11 parks, campgrounds, trailer parks, drive-in restaurants, construc-  
12 tion sites, gasoline service stations, shopping centers, retail store  
13 parking lots, parking lots of major industrial and business firms,  
14 marinas, boat launching areas, boat moorage and boat moorage  
15 and fueling stations, public and private piers and beaches and  
16 bathing areas. The number of such receptacles required to be  
17 placed as specified herein shall be determined by the department  
18 and related to the need for such receptacles. Such litter receptacles  
19 shall be maintained in a manner to prevent overflow or spillage of  
20 litter from the receptacles.

21 A person owning or operating any establishment or public place  
22 in which a litter receptacle of a design acceptable to the department  
23 are required by this section shall procure and place such receptacles  
24 at his own expense on the premises in accord with the rules and  
25 regulations adopted by the department.

26 Any person who fails to place and maintain such litter recepta-  
27 cles on the premises in the number and manner required by rule or  
28 regulation of the department, or who violates the provisions of this  
29 section or rules or regulations adopted hereunder shall be subject  
30 to a fine of fifteen dollars for each day of violation.

1 SECTION 11. Responsibility for removal of litter from recep-  
2 tacles. The responsibility for the removal of litter from receptacles  
3 placed at parks, beaches, campgrounds, trailer parks, and other  
4 public places shall remain upon those state and local agencies now  
5 performing litter removal services. The removal of litter from litter  
6 receptacles placed on private property used by the public shall  
7 remain the duty of the owner or operator of such private property.

1 SECTION 12. Annual report. An annual progress report, relat-  
2 ing to the purpose of this act, shall be filed with the clerk of of the  
3 House of Representatives on or before the first Wednesday in  
4 December of each year.

