

By Mr. Olver, a petition (accompanied by bill, Senate, No. 1310) of John W. Olver and John G. King for legislation to end duplicate inspection by public agencies. State Administration.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-nine.

AN ACT TO END DUPLICATE INSPECTION BY PUBLIC AGENCIES.

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 6A of the General Laws is hereby
2 amended by adding at the end of Section 1 the following new
3 definitions: —

4 “Inspection” means any regular, on-site investigation period-
5 ically conducted, or any request for information periodically
6 solicited in lieu of an on-site investigation, by or on behalf
7 of any public agency for the purpose of determining whether
8 to award, renew, alter, suspend or revoke a license, permit,
9 accreditation or rating of a public or private organization,
10 or of any property used by a public or private organization
11 in conducting its business or providing a service in the Com-
12 monwealth. “Inspection” shall not include investigation con-
13 ducted by law enforcement officers or grand juries, or upon
14 specific complaint, by public agencies with competent juris-
15 diction on the subject matter of the complaint, or by mem-
16 bers of the General Court.

17 “Duplicate inspection” means one of two or more inspec-
18 tions that are conducted at different times during the same
19 state fiscal year and that inquire into the same condition of
20 the premises of, or business conducted by, the same public or
21 private organization.

22 “Inspecting agency” means any agency of the Common-
23 wealth or of a political subdivision of the Commonwealth that
24 conducts inspections within Massachusetts.

25 “Conflicting standard” means one of two or more standards
26 relating to the quality of a public or private organization or

27 of the business conducted by such organization, or of the
28 service provided by such organization, or of property used by
29 such organization in conducting its business, that are em-
30 ployed in the same inspection or in duplicate inspections and
31 which cannot be met simultaneously.

1 SECTION 2. Chapter 6A of the General Laws is hereby
2 amended by adding after section 5 the following new sec-
3 tion: —

4 *Section 5A.* Inspections — no inspecting agency shall con-
5 duct an inspection or employ a standard relating to a condi-
6 tion over which another inspecting agency or an agency of the
7 federal government has primary jurisdiction, except under
8 an agreement with the entity having primary jurisdiction, or
9 an order of the Attorney General, adopted pursuant to the
10 provisions of this chapter.

11 If a question of jurisdiction over a condition involves two
12 or more inspecting agencies, such agencies shall attempt to
13 determine which of the agencies has primary jurisdiction over
14 the condition under existing law. If the inspecting agencies
15 cannot agree which agency has primary jurisdiction then: —

16 (1) if one or more of the inspecting agencies involved is a
17 state agency, the cabinet secretary(ies) having jurisdiction
18 over said agency(ies) shall determine which agency has
19 primary jurisdiction;

20 (2) if none of the agencies involved is a state agency, of if
21 the appropriate cabinet secretary(ies) fails to resolve such
22 a jurisdictional dispute, then the matter shall be referred to
23 the attorney general, who shall determine, based upon exist-
24 ing law, which of the inspecting agencies has primary juris-
25 diction.

26 Inspecting agencies with duplicate inspections and/or con-
27 flicting standards may enter into agreements among them-
28 selves, and with the federal government to eliminate duplicate
29 inspections and/or conflicting standards. All such agreements
30 shall be in writing shall be filed with the secretary of the
31 Commonwealth, and shall be promulgated as other administra-
32 tive regulations are in accordance with the provisions of Chap-
33 ter 30A of the General Laws.

1 SECTION 3. Said Chapter 6A of the General Laws is hereby
2 further amended by adding after section 7, the following new
3 sections: —

4 *Section 7A.* Duplicate inspections and conflicting standards
5 — No inspecting agency shall conduct an inspection that du-
6 plicates an inspection conducted by another inspecting agency
7 or by an agency of the federal government.

8 No inspecting agency shall employ in its inspections any
9 standard that conflicts with any other standard it employs in
10 inspection; and no inspection agency shall employ in its in-
11 spections any standard that conflicts with standards employed
12 by another inspecting agency or by an agency of the federal
13 government.

14 Inspecting agencies may enter into agreements among them-
15 selves and with the federal government to conduct duplicate
16 inspections at the same time where it is shown that the pub-
17 lic health, safety and welfare require the supervision of more
18 than one inspecting agency, or to designate one person or
19 body to conduct an inspection on their behalf. All such agree-
20 ments shall be approved by the appropriate cabinet secretary
21 (ies) and shall be filed with the Secretary of State and shall
22 be promulgated in accordance with the provisions of Chapter
23 30A of the General Laws and if inspecting agencies cannot
24 reach agreement to avoid duplicate inspections and/or con-
25 flicting standards, the procedures of section 5A shall be fol-
26 lowed to prevent duplicate inspections and/or conflicting
27 standards.

28 *Section 7B.* Criteria for Ending Duplicate Inspections and
29 Conflicting Standards —

30 Inspecting agencies, cabinet secretaries and/or the Attorney
31 General shall determine the method for consolidating inspec-
32 tions or otherwise eliminating duplicate inspections subject to
33 the following requirements: —

34 (1) No inspecting agency shall conduct an inspection con-
35 ducted by the federal government;

36 (2) No political subdivision of the Commonwealth, nor any
37 inspecting agency of any political subdivision of the Common-
38 wealth, shall conduct an inspection that duplicates an inspec-

39 tion conducted by a state agency;

40 (3) If two or more inspecting agencies of the same level or
41 unit of government have standards only the agency with
42 primary jurisdiction over the condition, as determined by sec-
43 tion 5A of this chapter shall conduct the inspection and em-
44 ploy standards, unless such agency is prohibited from doing
45 so by subparagraphs (1) . . . (2) . . . (4) or (5) of this sec-
46 tion;

47 (4) No inspecting agency shall employ a standard that con-
48 flicts with a standard employed by the federal government;

49 (5) No political subdivision of the Commonwealth, nor any
50 inspecting agency of any political subdivision of the Common-
51 wealth shall employ a standard that conflicts with a standard
52 employed by an inspecting agency of the State.

53 *Section 7C. Appeals*

54 Any person aggrieved by a determination made by a cabinet
55 secretary or the Attorney General pursuant to the provisions
56 of section 5A, 7A or 7B of this chapter may appeal such de-
57 termination to the Suffolk County Superior Court or the Su-
58 perior Court of the county in which the appellant resides.

59 *Section 7D. Injunctive Relief from Duplicate Inspections*
60 *and/or Standards.*

61 If any inspecting agency conducts or threatens to conduct
62 an inspection, or employs or threatens to employ a standard
63 in violation of the provisions of sections 5A, 7A or 7B of this
64 chapter, the Attorney General, on his own initiative, or the
65 district attorney for the district, where such inspection has
66 occurred or is likely to occur or where such standard has
67 been employed or is likely to be employed, may, upon a sworn
68 complaint by any person aggrieved by the alleged violation,
69 apply to the Superior Court of Suffolk County or the superior
70 court of the county in which the alleged violation occurred
71 or is likely to occur for injunctive relief against the inspecting
72 agency.

73 Any person aggrieved by an inspection conducted or about
74 to be conducted, or by the employment of or by a threat to
75 employ a standard in violation of the provisions of sections
76 5A, 7A and 7B of this chapter may file a sworn complaint with

77 the attorney general or the district attorney for the district
78 where the alleged violation occurred or is likely to occur, or
79 may apply to the Superior Court of Suffolk County or the
80 circuit court of the county in which the alleged violation oc-
81 curred or is likely to occur for injunctive relief against the
82 inspecting agency.

1 SECTION 4. Any sections of the General Laws in conflict with
2 the provisions of this act are hereby declared null and void.

1 SECTION 5. The provisions of this act are severable, and if
2 any of its provisions shall be held unconstitutional or invalid
3 by any court of competent jurisdiction the decision of such
4 court shall not affect or impair any of the remaining pro-
5 visions.

1 SECTION 6. If any inspecting agencies have failed to end
2 duplicate inspections and/or have failed to eliminate conflict-
3 ing standards by July 1, 1981, the Attorney General shall act
4 to end such duplicate inspections and/or eliminate such con-
5 flicting standards pursuant to the provisions of sections two
6 and three of this act.

1 SECTION 7. The Secretaries of Communities and Develop-
2 ment, Consumer Affairs, Administration and Finance, Educa-
3 tional Affairs, Environmental Affairs, Human Services, Elder
4 Affairs, Manpower Affairs, Public Safety and Transportation
5 and Construction are hereby authorized and directed to file
6 with the Clerk of the House of Representatives on or before
7 July 1, 1980 a report on the probable impact of this act on
8 their executive offices and agencies within those offices. In
9 addition, the Secretary of Communities and Development shall
10 file a report on the probable impact of this report on the po-
11 litical subdivisions of the Commonwealth.

1 SECTION 8. Sections 1, 2, 3 and 6 of this act shall take ef-
2 fect on July 1, 1981.

The first part of the history of the city of Boston is a record of the early settlement of the town by the English in 1630. The second part is a record of the growth of the city and the development of its institutions. The third part is a record of the city's role in the American Revolution. The fourth part is a record of the city's growth and development in the nineteenth century. The fifth part is a record of the city's role in the American Civil War. The sixth part is a record of the city's growth and development in the twentieth century. The seventh part is a record of the city's role in the American Civil War. The eighth part is a record of the city's growth and development in the twentieth century. The ninth part is a record of the city's role in the American Civil War. The tenth part is a record of the city's growth and development in the twentieth century.

