

By Mr. DiMasi of Boston, petition of Salvatore F. DiMasi for legislation to provide incentives for hazardous waste source reduction. 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-Seven.

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AN ACT TO PROVIDE INCENTIVES FOR REDUCING PRODUCTION OF HAZARDOUS POLLUTANTS.

*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. The General Laws are hereby amended by  
2 inserting after Chapter 21F the following chapter: —

3 CHAPTER 21G.

4 MASSACHUSETTS HAZARDOUS POLLUTANTS  
5 REDUCTION ACT.

6 *Section 1.* This chapter shall be known and may be cited as  
7 the "Massachusetts Hazardous Pollutants Reduction Act".

8 *Section 2.* As used in this chapter the following words shall,  
9 unless the context clearly requires otherwise, have the follow-  
10 ing meanings: —

11 "Acutely hazardous waste", any waste defined by the  
12 department of environmental quality engineering as such in  
13 its regulations promulgated pursuant to chapter 21C of the  
14 General Laws.

15 "Generation", when used in reference to generation or pro-  
16 duction of hazardous pollutants refers to the point in a  
17 manufacturing or service production process at which a hazar-  
18 dous input is taken out of its normal flow in a particular pro-  
19 cess segment in a form which meets the definition of a hazar-  
20 dous pollutant, or the point in a manufacturing or service pro-  
21 cess at which two or more inputs combine in the process to  
22 form some other hazardous substance which is then removed  
23 in a form which meets the definition of a hazardous pollutant.

24 "Hazardous material", material including but not limited  
25 to, any material, in whatever form, which, because of its quan-  
26 tity, concentration, chemical, corrosive, flammable, reactive,  
27 toxic, infectious or radioactive characteristics, either  
28 separately or in combination with any substance or  
29 substances, constitutes a present or potential threat to human  
30 health, safety, welfare, or to the environment, when improper-  
31 ly stored, treated, transported, disposed of, used or otherwise  
32 managed. The term shall not include oil. The term shall also  
33 include all those substances which are included under  
34 42USC Sec. 9601(14), but it is not limited to those substances.

35 "Hazardous pollutant", a hazardous material which is  
36 generated as a residue from a production or service process,  
37 the release of which into the workplace or general environment  
38 is regulated under the general laws of the commonwealth.

39 "Hazardous waste", a waste, or combination of wastes,  
40 which because of its quantity, concentration or physical,  
41 chemical or infectious characteristics may cause, or  
42 significantly contribute to an increase in mortality or an in-  
43 crease in serious irreversible or incapacitating reversible illness  
44 or pose a substantial present or potential hazard to human  
45 health, safety, welfare or the environment when improperly  
46 treated, stored, transported, used or disposed of, or otherwise  
47 managed, however, not to include solid or dissolved materials  
48 in irrigation return flows or industrial discharges which are point  
49 sources subject to permits under section 402 of the Federal Water  
50 Pollution Control Act of 1967 as amended, or source, special  
51 nuclear, or byproduct material as defined by the Atomic Energy  
52 Acts of 1954. The term includes any waste listed or defined by  
53 the department as hazardous waste in regulations promulgated  
54 pursuant to either chapter 21C of the General Laws or this  
55 chapter.

56 "Industry productive segment", a set of manufacturing or  
57 service firms or divisions of firms which employ similar  
58 production processes to produce a similar produce or line of  
59 products.

60 "Small-quantity generator", any generator of hazardous  
61 waste defined by the department of environmental quality  
62 engineering as such in its regulations promulgated pursuant

63 to chapter 21C of the General Laws.

64 *Section 3.* The governor shall establish an interagency coun-  
65 cil on hazardous pollutants reduction which shall be charged  
66 with ensuring that all of the commonwealth's development and  
67 regulatory programs which influence production and control  
68 of hazardous pollutants in the commonwealth are consistent  
69 with each other in promoting reduced generation of pollutants  
70 as the preferred management strategy and in general in pro-  
71 moting management methods which result in net reductions  
72 in risks of damage posed to human health and the environ-  
73 ment, including but not limited to occupational and en-  
74 vironmental human health risks. This council shall include  
75 representatives from: the executive offices responsible for  
76 economic and environmental affairs; each of the relevant divi-  
77 sions of the departments of environmental quality engineer-  
78 ing, environmental management, public health, and labor  
79 and industries; and any other department or agency the ac-  
80 tivities of which influence the selection of methods to control  
81 or otherwise manage hazardous pollutants in the com-  
82 monwealth. The council will be chaired by a representative  
83 of the governor's staff.

84 The council on hazardous pollutants reduction shall identify  
85 and examine all of the commonwealth's development and  
86 regulatory programs and determine what changes are  
87 necessary to satisfy the council's mandate and what must be  
88 done to effect those changes. The council shall annually sub-  
89 mit a report to the governor which details the changes  
90 necessary to implement its mandate and progress made to  
91 date in effecting those changes. This report shall be made  
92 available to the public.

93 *Section 4. (a)* The commissioner of administration, in con-  
94 sultation with the commissioner of the department of en-  
95 vironmental quality engineering, shall establish and annual-  
96 ly review a schedule of fees to be paid by persons who generate  
97 hazardous waste. The first year the fees are established the  
98 fees shall be equivalent to forty dollars per metric ton wet  
99 weight of acutely hazardous wastes generated and twenty  
100 dollars per metric ton wet weight of all other hazardous wastes  
101 generated. Each succeeding year the fees shall increase in real

102 dollars, adjusted for inflation, by twenty dollars for acutely  
103 hazardous wastes and ten dollars for other hazardous wastes.

104 Such fees shall be established within 180 days after the date  
105 of enactment of this section by regulations promulgated after  
106 public hearing and in accordance with section 2 of chapter thir-  
107 ty A. Such fees shall be based on the quantity and type of hazar-  
108 dous waste generated or such other factors as the commis-  
109 sioner of administration may deem appropriate; provided,  
110 however, that said commissioner shall provide exemptions  
111 from such fees in order to encourage generators to adopt  
112 management techniques which present reduced net risks of  
113 damage to human health and the environment, including but  
114 not limited to occupational and environmental health risks.  
115 Such management techniques may include but not be limited  
116 to on-site or off-site recycling or reuse, on-site or off-site con-  
117 centration methods, or on-site or off-site treatment methods.  
118 Exemptions will be determined by calculating the net risks  
119 associated with a particular technique and then comparing  
120 them to the net risks associated with landfilling and other high  
121 risk treatment, storage, or disposal techniques. No exemptions  
122 will be provided for use of these high risk management tech-  
123 niques. To the extent that some management technique other  
124 than such high risk techniques is used for a particular kind  
125 of hazardous waste and the net risks associated with that  
126 technique are less than those associated with whichever of  
127 these high risk techniques presents the less net risk, a partial  
128 exemption proportional to the amount of net risk reduction  
129 shall be provided.

130 (b) Small-quantity generators shall be exempted from the  
131 fees provided for in paragraph (a).

132 (c) In promulgating the regulations provided for in  
133 paragraph (a), the commissioner shall generically specify the  
134 exemptions to be provided for use of management techniques  
135 commonly applied to particular waste types, and will establish  
136 a procedure by which the department of environmental quality  
137 engineering derives exemptions on a case-by-case basis for  
138 use of techniques for which exemptions are not generically  
139 specified.

140 (d) As provided for in paragraph (a), in calculating the net

141 risks of damage to human health and the environment associated  
142 with the use of a particular management technique for a  
143 particular waste, potential threats to be considered shall include,  
144 but not be limited to, threats to:

145 (1) workers potentially exposed either at the site of genera-  
146 tion, in transport, or at subsequent sites where the wastes are  
147 handled;

148 (2) persons in communities near the site of generation,  
149 transport routes, and subsequent sites where wastes are handled;  
150 and

151 (3) sensitive environmental areas including but not limited  
152 to wetlands, aquifer recharge zones, endangered species  
153 habitat, and recreation areas.

154 *Section 5.* Each year a portion of the fees collected from  
155 generators pursuant to the provisions of section 4 will be used  
156 to offset the administrative costs incurred by the departments  
157 of revenue and environmental quality engineering in operating  
158 the fee collection program. The remainder will be used to fund  
159 the activities of the bureau of hazardous pollutants reduction,  
160 as provided for in section 6.

161 *Section 6.* (a) There is hereby established a bureau of hazar-  
162 dous pollutants reduction within the department of en-  
163 vironmental management. This bureau shall operate pro-  
164 grams to:

165 (1) provide technical assistance to generators of hazardous  
166 pollutants who are investigating methods to reduce that  
167 generation or the risk of damage associated with that genera-  
168 tion. Such assistance shall be provided to groups of generators,  
169 and also on an individual basis for generators who cannot  
170 otherwise afford to obtain such assistance from other sources;

171 (2) educate generators of hazardous pollutants and the  
172 public about technologies available for reducing pollutant  
173 generation and associated risks of damage;

174 (3) inform generators of potential sources of low cost capital  
175 for implementing reduction technologies and assist on a one-  
176 on-one basis those generators unable to otherwise afford such  
177 assistance to obtain such capital;

178 (4) sponsor efforts to research and develop innovative  
179 technologies for reducing hazardous pollutant generation and

180 associated management risks, in collaboration with groups of  
181 generators or trade associations. Such efforts shall be under-  
182 taken only if at least half of the funding is provided by  
183 generators or other non-bureau sources, the bureau is a full  
184 partner in the project, and the bureau retains rights of con-  
185 trol over any products; and

186 (5) provide staff for the interagency council on hazardous  
187 pollutants reduction established under Section 3, and ensure  
188 that efforts are made to implement the council's  
189 recommendations.

190 (b) The bureau established under paragraph (a) shall iden-  
191 tify generators of hazardous pollutants in the commonwealth,  
192 and the amounts and types of pollutants they generate, and  
193 classify them according to industry productive segments. The  
194 productive segments identified will then be evaluated and  
195 priority segments selected. Priorities will be selected according  
196 to consideration to include but not necessarily be limited to:  
197 amounts, types of hazards of hazardous pollutants  
198 generated statewide; potential for reduction of generation and  
199 associated management risks; risk of damage posed by cur-  
200 rently used management methods; and the costs, both to  
201 generators and the state, of obtaining reduction of generation.  
202 The bureau immediately after its establishment will use  
203 available data and estimates to identify the priority produc-  
204 tive segments and will refine the priorities as more informa-  
205 tion is gathered.

206 The bureau will focus the programs provided for in  
207 paragraph (a) on achieving reduced generation of hazardous  
208 pollutants by generators in the priority productive segments.

209 *Section 7.* Ten years after the date of enactment of this act,  
210 the bureau established under section 6 shall evaluate the pro-  
211 gress of individual generators in achieving reduction of hazar-  
212 dous pollutant generation. If the bureau identifies generators  
213 which have clearly made unsatisfactory progress, then it shall  
214 refer those generators to the department of environmental  
215 quality engineering. That department shall then be em-  
216 powered to take action necessary to ensure that progress is  
217 made, including but not limited to, issuing administrative  
218 orders mandating adoption of specific technologies or achieve-  
219 ment of specified percentage generation reductions within a

220 specified time period.

- 1 SECTION 2. If any section of this act shall be held invalid, the
- 2 invalidity of that section shall not affect the remaining sec-
- 3 tions of this act.

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