

By Mr. Bartley of Watertown, petition of the Professional Fire Fighters of Massachusetts and John C. Bartley for legislation to establish a data bank in the Department of Public Safety for the maintenance of combustion toxicity tests results. Public Safety.

**The Commonwealth of Massachusetts**

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

AN ACT RELATIVE TO THE TESTING OF CERTAIN BUILDING AND FURNISHING PRODUCTS TO DETERMINE THE TOXICITY OF SMOKE AND GASES GIVEN OFF BY SUCH PRODUCTS WHEN EXPOSED TO FIRE OR THERMAL DECOMPOSITION, AND TO ESTABLISH A DATA BANK FOR THE MAINTENANCE OF COMBUSTION TOXICITY TEST RESULTS.

*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. Notwithstanding the provisions of any general or  
2 special law or regulation to the contrary, there shall be created  
3 a testing system administered by the Department of Public Safety  
4 to determine the toxicity of certain materials.

5 Definitions: —

6 1. "Building" means a structure wholly or partially enclosed  
7 within exterior walls, or within exterior and party walls, covered  
8 with a roof, which is intended to be occupied by fifty or more  
9 persons, and which is constructed on, or after, the effective date  
10 of this act.

11 2. "Combustion toxicity indicator" means the measurement of  
12 the relative combustion toxicity of a product as determined by  
13 tests conducted pursuant to this act in conformity with a toxicity  
14 test method recognized and prescribed by the fire marshal for such  
15 purpose.

16 3. "Embedment" means any product which is used as a pipe,  
17 wire, cable, conduit, or duct in, or as part of a building.

18 4. "Interior finish products" means those products that form  
19 the exposed exterior surface of a building and that are part of,

20 or affixed to walls, floors, fixed or folding partitions, ceilings, and  
21 other construction elements.

22 5. "Interior trim products" means those products around  
23 openings in a wall or ceiling of a building, generally not exceeding  
24 twelve inches in width, including casings, aprons, baseboards,  
25 chair rails, picture molds, cornice moldings, and moldings applied  
26 for decoration.

27 6. "Structural member" means any product which is used as  
28 a column, girder, truss, beam, or lintel in, or as part of a building.

29 7. "Toxicity test method" means a test procedure which is  
30 recognized and prescribed by the fire marshal as an authoritative  
31 means of measuring the relative toxicity of smoke and gases given  
32 off by a product when exposed to fire or thermal decomposition.  
33 A toxicity test method shall substantially meet the following  
34 criteria: (1) the combustion system shall be capable of being heated  
35 to a temperature range of more than one fixed temperature; (2)  
36 the exposure system shall be capable of measuring a broad range  
37 of decomposition products; (3) such method shall be capable of  
38 measuring the lethality of a product and the time it takes to reach  
39 lethality; and (4) the test results shall be capable of being  
40 reproduced in independent laboratories.

1 SECTION 2. Combustion toxicity testing. 1. No product  
2 which is an interior finish product, an interior trim product, an  
3 embedment, or a structural member shall be used in, or as part  
4 of, a building located in (name and locality), unless the  
5 manufacturer, producer, or fabricator of the product shall (i)  
6 cause the product to be tested in accordance with a toxicity test  
7 method and (ii) file a test report which shall include the  
8 combustion toxicity indicator pursuant to rules prescribed by the  
9 fire marshal or fire commissioner. Such testing shall be conducted  
10 by an independent testing service or laboratory certified as  
11 acceptable by the fire marshal. No test report shall be accepted  
12 for filing under this section unless it is accompanied by a  
13 certification of the independent testing service, or laboratory  
14 whose tests have been conducted in full compliance with the  
15 toxicity test method prescribed by the fire marshal.

1 SECTION 3. All combustion toxicity testing pursuant to this  
2 act shall be conducted by independent testing services or  
3 laboratories certified and approved by the fire marshal. The fire  
4 marshal shall adopt appropriate certification procedures to assure  
5 that the testing services or laboratories have sufficient equipment,  
6 expertise, and quality control procedures, to produce reliable test  
7 results conforming to the toxicity test method prescribed by the  
8 fire marshal. The fire marshal shall periodically monitor the test  
9 results and quality control procedures, to assure that each certified  
10 testing service or laboratory, produces reliable and consistent test  
11 reports. Toxicity data bank. 1. The fire marshal shall compile all  
12 test reports filed in accordance with this ordinance. The  
13 information generated by such test reports and the compilation  
14 of the results shall be maintained in a data bank by the fire marshal  
15 and shall be open to public inspection.

16 2. The fire marshal shall periodically publicize the availability  
17 of the toxicity information in the data bank in trade and other  
18 journals directed to the construction industry, architects, building  
19 and interior designers, and other persons who the fire marshal has  
20 reason to believe will have an interest in such information. The  
21 fire marshal shall annually compile all test reports in a publication  
22 and shall annually distribute such publication to fire chiefs,  
23 electrical inspectors, plumbing inspectors, building officials, and  
24 other appropriate authorities.

1 SECTION 4. Costs and fees. 1. All costs of combustion  
2 toxicity testing and of the transmittal of the data generated  
3 thereby shall be borne by the manufacturer, producer, or  
4 fabricator of the product.

5 2. The fire marshal shall have the authority to charge such fees  
6 as are necessary to defray the costs of performing the  
7 administrative duties required by this ordinance.

1 SECTION 5. The fire marshal shall have the authority to  
2 prescribe such rules as are necessary to carry out the provisions  
3 of this ordinance.

1 SECTION 6. Enforcement provision. The fire marshal shall  
2 have the authority to institute a civil action or proceeding (i) to

3 enjoin the use in (name of locality) of any product which has not  
4 been tested or for which a test report has not been filed in  
5 accordance with this ordinance, and (ii) to compel any  
6 manufacturer, producer, or fabricator, who fails or refuses to  
7 comply with the provisions of this ordinance to do so.