

By Mr. Atsalis of Barnstable (by request), petition of Ken Moulton relative to protecting the public health from toxic mold. Health Care.

The Commonwealth of Massachusetts

In the Year Two Thousand and Two.

AN ACT PROTECTING THE PUBLIC HEALTH FROM TOXIC MOLD.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended by inserting after chap-
2 ter 111K the following chapter:—

CHAPTER 111L.

Moulton Toxic Mold Protection Act.

5 Section 1. For purposes of this chapter, the following definitions
6 apply:

7 (a) “Affect” means to cause a condition by the presence of mold
8 in the dwelling, unit, building, appurtenant structure, common wall,
9 heating system or ventilating and air-conditioning system that
10 affects the indoor air quality of a dwelling unit or building.

11 (b) “Authoritative bodies” means any recognized national or
12 international entities with expertise on public health, mold identifi-
13 cation and remediation, or environmental health, including, but not
14 limited to, other states, the United States Environmental Protection
15 Agency, the World Health Organization, the American Conference
16 of Governmental Industrial Hygienists, the New York City Depart-
17 ment of Health, the Centers for Disease Control and Prevention and
18 the American Industrial Hygiene Association.

19 (c) “Certified Industrial Hygienist” means a person who has met
20 the education, experience and examination requirements of an indus-
21 trial hygiene certification organization as defined in the Massachu-
22 setts Business and Professions Code.

23 (d) “Code enforcement officer” means a local official responsible
24 for enforcing housing codes and maintaining public safety in build-
25 ings using an interdepartmental approach at the local level.

26 (e) "Department" means the Massachusetts State Department of
27 Public Health, designated as the lead agency in the adoption of per-
28 missible exposure limits to mold in indoor environments, mold iden-
29 tification and remediation efforts, and the development of guidelines
30 for the determination of what constitutes mold infestation.

31 (f) "Indoor environments" means the affected dwelling unit or
32 affected commercial or industrial building.

33 (g) "Mold" means any form of multicellular fungi that live on
34 plant or animal matter in indoor environments. Types of mold
35 include, but are not limited to, Cladosporium, Penicillium, Alternaria,
36 Aspergillus, Fuarim, Trichoderma, Memnoniella, Mucor, and
37 Stachybotrys chartarum, often found in water-damaged building
38 materials.

39 (h) "Person" means an individual, corporation, company, associa-
40 tion, partnership, limited liability company, municipality, public
41 utility, or other public body or institution.

42 (i) "Public health officer" means a local health officer appointed
43 pursuant to the governing Massachusetts Laws or a local compre-
44 hensive health agency designated by the local elected governing
45 body pursuant to carrying out the drinking water program.

46 Section 2. All standards that the department develops pursuant to
47 this chapter shall be in accordance with existing administrative law
48 procedures applicable to the development of regulations.

49 Section 3. The department shall convene a task force which shall
50 advise the department on the development of standards pursuant to
51 sections 5, 7, 8 10 and 16. The task force shall be comprised of rep-
52 resentatives of public health officers, environmental health officers,
53 code enforcement officers, experts on the health effects of molds,
54 medical experts, certified industrial hygienists, mold abatement
55 experts, representatives of government-sponsored enterprises, repre-
56 sentatives of school districts or office of education, and scores of
57 affected consumers, which include, but are not limited to, residen-
58 tial, commercial and industrial tenants, homeowners, environmental
59 and consumer groups and attorneys, and affected industries, which
60 include, but are not limited to, residential, commercial and industrial
61 building proprietors, managers or landlords, builders, realtors, sup-
62 pliers of building materials and suppliers of furnishings and insurers.
63 Task force members shall serve on a voluntary basis and shall be
64 responsible for any costs associated with their participation in the

65 task force. The department shall not be responsible for travel costs
66 incurred by task force members or otherwise compensating task
67 force members for costs associated with their participation in the
68 task force.

69 Section 4. The department shall consider the feasibility of adopting
70 permissible exposure limits to mold in indoor environments.

71 Section 5. (a) When the department adopts permissible exposure
72 limits to mold in indoor environment as feasible, the department in
73 cooperation with the task force convened pursuant to section 3 shall:

74 (1) Adopt permissible exposure limits to mold for indoor environ-
75 ments that avoid adverse effects on health, with an adequate margin
76 of safety, and avoid any significant risk to public health.

77 (2) Notwithstanding paragraph (1), balance the protection of
78 public health with technological feasibility when it adopts permis-
79 sible exposure limits.

80 (3) Utilize and include the latest scientific data or existing stan-
81 dards adopted by authoritative bodies.

82 (4) Develop a permissible exposure limit that targets the general
83 population.

84 (b) The department shall consider all of the following criteria
85 when it adopts permissible exposure limits for molds in indoor
86 environments:

87 (1) The adverse health effects of exposure to molds on the general
88 population, including specific effects on members of subgroups that
89 comprise a meaningful portion of the general population, which may
90 include infants, children age 6 years and under, pregnant women, the
91 elderly, asthmatics, allergic individuals, immune compromised indi-
92 viduals, or other subgroups that are identifiable as being at greater
93 risk of adverse health effects than the general population when
94 exposed to mold.

95 (2) The standards for molds adopted by authoritative bodies.

96 (3) When determining the technological and economic feasibility
97 of compliance with the proposed permissible exposure limits for
98 molds, the department may only consider the health and welfare of
99 the citizens as the governing rule of law.

100 (4) Toxicological studies and any scientific evidence as it relates
101 to mold.

102 a. The department may develop alternative permissible exposure
103 limits applicable for facilities, which may include hospitals, child

104 care facilities and nursing homes, whose primary business is to serve
105 members of subgroups that comprise a meaningful portion of the
106 general population and are at a greater risk of adverse health effects
107 from molds than the general population. These subgroups may
108 include infants, children age 6 years and under, pregnant women, the
109 elderly, asthmatics, allergic individuals, or immune compromised
110 individuals.

111 b. The department shall report to the legislature on its progress in
112 developing the exposure limit for molds by July 1, 2003.

113 Section 6. (a)(1) The department shall, at the time it commences
114 preparation of the permissible exposure limits to mold, provide
115 notice electronically by posting on its Internet Web Site and by pub-
116 lication in newsprint and television broadcast, statewide, a notice
117 that informs interested persons that the department has initiated
118 work on the permissible exposure limits to mold.

119 (2) The notice shall also include a brief description or a bibliog-
120 raphy of the technical documents or other information the department
121 has identified to date as relevant to the preparation of permissible
122 exposure limits.

123 (3) The notice shall inform persons who wish to submit informa-
124 tion concerning exposure to molds of the name and address of the
125 person in the department to whom the information may be sent, the
126 date by which the information must be received in order for the
127 department to consider it in the preparation of the permissible expo-
128 sure limits, and that all information submitted will be available to
129 any member of the public who makes the request.

130 (b) The department may amend the permissible exposure limits to
131 molds to make the limits less stringent if the department shows clear
132 and convincing evidence that the permissible exposure limits to
133 molds should be less stringent and the amendment is made consis-
134 tent with Section 5.

135 (c) The department may review, and consider adopting by refer-
136 ence, any information prepared by, or on behalf of the United States
137 Environmental Protection Agency or other authoritative bodies, for
138 the purpose of adopting national permissible exposure limits to mold
139 as long as they are not less stringent than those already defined.

140 (d) At least once every five years, after adoption of permissible
141 exposure limits to molds, the department shall review the adopted
142 limits and shall, consistent with the criteria set forth in subdivisions

143 (a) and (b) of section 5, amend the permissible exposure limits if any
144 of the following occur:

145 (1) Changes in technology or treatment techniques that permit a
146 materially greater protection of public health.

147 (2) New scientific evidence that indicates that molds may pre-
148 sent a materially different risk to public health than was previ-
149 ously determined.

150 Section 7. The department in consultation with the task force con-
151 vened pursuant to section 3 shall adopt practical standards to assess
152 the health threat posed by the presence of mold both visible and
153 invisible or hidden, in an outdoor environment.

154 (b) The department shall adopt assessment standards for molds
155 that do the following:

156 (1) Protect the public's health.

157 (2) Notwithstanding paragraph (1), balance the protection of
158 public health with technological feasibility when it adopts assess-
159 ment standards.

160 (3) Utilize and include the latest scientific data or existing highest
161 standards for the assessment of molds adopted by authoritative
162 bodies.

163 (4) Develop standards that target the general population.

164 (5) The department shall ensure that air or surface testing is not
165 required to determine whether the presence of mold constitutes a
166 health threat by the presence of the mold, both visible and invisible
167 or hidden, in an indoor environment.

168 (b) The department shall consider all of the following criteria
169 when it adopts standards for the assessment of molds in indoor
170 environments:

171 (1) The adverse health effects of exposure to molds on the general
172 population, including specific effects on members of subgroups that
173 comprise a meaningful portion of the general population, which may
174 include infants, children 6 years and under, pregnant women, the
175 elderly, asthmatics, allergic individuals, immune compromised indi-
176 viduals, or other subgroups that are identifiable as being at greater
177 risk of adverse health effects than the general population when
178 exposed to molds.

179 (2) The standards of assessment of molds, if any, adopted by
180 authoritative bodies.

181 (3) Any toxicological studies or additional scientific evidence.

182 (c) The department shall report to the legislature on its progress in
183 developing the assessment standards for molds by July 1, 2003.

184 Section 8. The department may develop alternative assessment
185 standards applicable for facilities, which may include hospitals,
186 child care facilities and nursing homes, whose primary business is
187 to serve members of subgroups that comprise a meaningful portion
188 of the general population and are at a greater risk of adverse health
189 effects to molds than the general population. These subgroups may
190 include infants, children 6 years and under, pregnant women, the
191 elderly, asthmatics, allergic individuals, or immune compromised
192 individuals.

193 Section 9. (1) The department shall, at the time it commences
194 preparation of the permissible exposure limits to mold, provide
195 notice electronically by posting on its Internet Web Site and by pub-
196 lication in newsprint and television broadcast, statewide, a notice
197 that informs interested persons that the department has initiated
198 work on the permissible exposure limits to mold.

199 (2) The notice shall also include a brief description or a bibliog-
200 raphy of the technical documents or other information the depart-
201 ment has identified to date as relevant to the preparation of
202 permissible exposure limits.

203 (3) The notice shall inform persons who wish to submit informa-
204 tion concerning exposure to molds of the name and address of the
205 person in the department to whom the information may be sent,
206 the date by which the information must be received in order for the
207 department to consider it in the preparation of the permissible expo-
208 sure limits, and that all information submitted will be available to
209 any member of the public who makes the request.

210 (b) The department may review, and consider adopting by refer-
211 ence, any information prepared by, or on behalf of the United States
212 Environmental Protection Agency or other authoritative bodies, for
213 the purpose of adopting national permissible exposure limits to mold
214 as long as they are not less stringent than those already defined.

215 (c) At least once every five years, after adoption of permissible
216 exposure limits to molds, the department shall review the adopted
217 limits and shall, consistent with the criteria set forth in subdivisions
218 (a) and (b) of section 7 or amend the permissible exposure limits if
219 any of the following occur:

220 (1) Changes in technology or treatment techniques that permit a
221 materially greater protection of public health.

222 (2) New scientific evidence that indicates that molds may pre-
223 sent a materially different risk to public health than was previ-
224 ously determined.

225 Section 10. The department, in consultation with the task force
226 convened pursuant to Section 12669.3, shall adopt mold identifica-
227 tion guidelines for the recognition of mold, water damage, or micro-
228 bial volatile organic compounds in indoor environments.

229 Section 11. Identification guidelines shall include scientifically
230 valid methods to identify the presence of mold including elements
231 for collection of air, surface and bulk samples, visual identification.
232 Olfactory identification, laboratory analysis, measurements of
233 amount of moisture and presence of mold and other recognized ana-
234 lytical methods used for the identification of molds.

235 Section 12. Identification guidelines developed by the department
236 shall do all of the following:

237 (1) Avoid adverse effects on the health of the general population,
238 with an adequate margin of safety, and avoid any significant risk to
239 public health.

240 (2) Utilize and include the latest scientific data or existing stan-
241 dards adopted by authoritative bodies.

242 (b) The department shall consider all of the following criteria
243 when it develops identification guidelines for mold:

244 (1) Permissible exposure limits to molds developed by the State
245 department of Public Health pursuant to subdivisions (a) and (b) of
246 Section 5 what constitutes a health threat posed by the presence of
247 mold, both visible and invisible or hidden, in an indoor environment,
248 according to the departments standards as developed pursuant to
249 Section 7.

250 (2) Standards for mold identification adopted by authoritative
251 bodies.

252 (3) Professional judgment and practicality.

253 (4) Toxicological reports or additional scientific evidence.

254 (c) The department shall require a commercial, industrial, or resi-
255 dential landlord or a public entity that rents or leases a unit or
256 building to conduct air or surface tests of units or buildings to deter-
257 mine whether the presence of molds exceeds the permissible expo-
258 sure limits to mold established by subdivisions (a), (b) and (c) of
259 Section 5.

260 (d) The department shall report to the legislature on its progress in
261 developing the assessment standards for molds by July 1, 2003.

262 Section 13. The department may review, and consider adopting by
263 reference, any information prepared by, or on behalf of the United
264 States Environmental Protection Agency or other authoritative
265 bodies, for the purpose of adopting national identification standards
266 for mold as long as they are not less stringent than those already
267 defined.

268 Section 14. (a) The department shall, at the time it commences
269 preparation of identification guidelines for mold, provide notice
270 electronically by posting on its Internet Web Site and by publication
271 in newsprint and television broadcast, statewide, a notice that
272 informs interested persons that the department has initiated work on
273 the identification guidelines for mold.

274 (2) The notice shall also include a brief description or a bibliog-
275 raphy of the technical documents or other information the depart-
276 ment has identified to date as relevant to the preparation of
277 identification guidelines for mold.

278 (3) The notice shall inform persons who wish to submit mold
279 identification of the name and address of the person in the depart-
280 ment to whom the information may be sent, the date by which the
281 information must be received in order for the department to consider
282 it in the preparation of the identification guidelines, and that all
283 information submitted will be available to any member of the public
284 who makes the request.

285 Section 15. All identification guidelines for mold published by the
286 department shall be reviewed at least once every 5 years and revised,
287 as necessary, based upon the availability of new scientific data or
288 information on effective mold identification.

289 Section 16. The department in consultation with the task force
290 convened pursuant to Section 3, shall develop and disseminate reme-
291 diation guidelines for molds in indoor environments.

292 Section 17. (a) Remediation guidelines for mold developed by the
293 department shall do all of the following:

294 (1) Provide practical guidance for the removal of mold and abate-
295 ment of the underlying cause of mold and associated water intrusion
296 and water damage in indoor environments.

297 (2) Protect the public's health.

298 (3) Utilize and include toxicological reports, the latest scientific
299 data, or existing standards for the remediation of molds adopted by
300 authoritative bodies.

301 (4) Provide practical guidance for the removal or cleaning of con-
302 taminated materials in a manner that protects the health of the person
303 performing the abatement.

304 (5) Include criteria for personal protective equipment.

305 (6) Require utilization of the services of a specifically qualified
306 and trained professional to conduct the mold remediation.

307 (b) The department shall consider all of the following criteria
308 when it develops remediation guidelines for mold:

309 (1) Permissible exposure limits to molds developed by the depart-
310 ment pursuant to subdivisions (a) and (b) of Section 5 or what con-
311 stitutes a health threat posed by the presence of mold, both visible
312 and invisible or hidden, in an indoor environment, according to the
313 departments guidelines as developed pursuant to Section 7.

314 (2) Guidelines for mold remediation adopted by authoritative
315 bodies.

316 (3) Professional judgment and practicality.

317 (c) The department shall require a commercial, industrial, or resi-
318 dential landlord or a public entity that rents or leases a unit or
319 building to conduct air or surface tests of units or buildings to deter-
320 mine whether the presence of molds exceeds the permissible expo-
321 sure limits to mold established by subdivisions (a), (b), and (c) of
322 Section 5.

323 (d) The department shall report to the legislature on its progress in
324 developing the assessment standards for molds by July 1, 2003.

325 Section 18. (a) The department shall, at the time it commences
326 preparation of identification guidelines for mold, provide notice
327 electronically by posting on its Internet Web Site and by publication
328 in newsprint and television broadcast, statewide, a notice that
329 informs interested persons that the department has initiated work on
330 the identification guidelines for mold.

331 (b) The notice shall also include a brief description or a bibliog-
332 raphy of the technical documents or other information the depart-
333 ment has identified to date as relevant to the preparation of
334 identification guidelines for mold.

335 (c) The notice shall inform persons who wish to submit mold
336 identification of the name and address of the person in the depart-
337 ment to whom the information may be sent, the date by which the
338 information must be received in order for the department to consider
339 it in the preparation of the identification guidelines, and that all

340 information submitted will be available to any member of the public
341 who makes the request.

342 Section 19. The department may review, and consider adopting by
343 reference, any information prepared by, or on behalf of the United
344 States Environmental Protection Agency or other authoritative
345 bodies, for the purpose of adopting national remediation standards
346 for mold as long as they are not less stringent than those already
347 defined.

348 Section 20. (a) The department shall make available to the public
349 upon request, information about contracting for the removal of mold
350 in a building or surrounding environment, including all of the
351 following:

352 (1) Recommended steps to take when contracting with a company
353 to remove mold.

354 (2) Existing laws, regulations, and guidelines developed by the
355 department, pertaining to permissible exposure limits to mold infes-
356 tation, identification, and remediation.

357 (3) Basic health information as contained in existing mold
358 publications.

359 (b) All mold remediation guidelines published by the department
360 shall be reviewed at least once every five years and revised as neces-
361 sary based upon the availability of new scientific data.

362 (c)(1) The Department of Public Health shall develop public edu-
363 cation material and resources to inform the public about the health
364 effects of molds, methods to prevent, identify and remediate mold
365 growth, resources to obtain information about molds, and contact
366 information for individuals, organizations, or government entities to
367 assist with public concerns about molds.

368 (2) The department shall make its public information materials
369 available to public health officers, environmental health officers,
370 commercial and residential landlord organizations, homeowner and
371 tenant organizations. These materials shall be readily available to the
372 general public.

373 (3) These materials shall be comprehensible to the general public.

374 (4) These materials shall be made available on the department's
375 internet website.

376 Section 21. (a) Subject to subdivisions (b), (c), (d), (e) and (f), a
377 seller or transferor of residential, commercial or industrial real prop-
378 erty, shall provide written disclosure to prospective buyers as soon

379 as practicable before the transfer of title when the seller or transferor
380 knows of, or has a suspicion of, the presence of mold, both visible
381 and invisible or hidden, that effects the unit or building and the mold
382 either exceeds permissible exposure limits to molds established by
383 subdivisions (a), (b) and (c) of Section 5 or poses a health threat
384 according to the department guidelines as developed pursuant to
385 Section 7.

386 (b) A seller or transferor of residential, commercial or industrial
387 real property shall not be exempt from providing written disclosure
388 pursuant to this subdivision if the presence of mold was remediated
389 according to the mold remediation guidelines developed by the
390 department pursuant to Section 16.

391 (c) A residential, commercial or industrial real property landlord
392 or seller shall be required to conduct air or surface tests of units or
393 buildings to determine whether the presence of mold exceeds the
394 permissible exposure limits to molds established by subdivisions (a)
395 and (b) of Section 5.

396 (d) The requirements of this section shall not apply until the first
397 January 1 or July 1 that occurs six months after the department
398 adopts standards pursuant to Sections 5 and 7 and develops guide-
399 lines pursuant to Section 16.

400 (e) The requirements of this section as to the notification and dis-
401 closure of mold by sellers or transferors of residential, commercial
402 or industrial real property shall begin immediately upon passage of
403 this bill.

404 (f) The written notice required by subdivision (a) shall be pro-
405 vided to prospective tenants as soon as practicable and prior to
406 entering into a rental agreement. It will also be provided to current
407 tenants in affected units as soon as possible.

408 Section 22. Any tenant of a residential, commercial or industrial
409 real property who knows that mold is present in the building, heating
410 system, ventilating or air-conditioning system, or appurtenant struc-
411 tures or that there is a condition of chronic water intrusion or flood,
412 shall inform the landlord of this knowledge in writing within a rea-
413 sonable period of time. The tenant shall make the property available
414 to the landlord or his or her agents for appropriate assessment or
415 remedial action as soon as is reasonably practicable if the landlord is
416 responsible for the maintenance of the property. Nothing in this
417 section is intended to any way affect existing duties and obligations
418 of residential tenants and landlords.

419 Section 23. Residential, commercial and industrial landlords, who
420 know, suspect or have notice that mold is present in the building,
421 heating system, ventilating or air-conditioning system, or appur-
422 tenant structures, or there is a condition of chronic water intrusion or
423 flood, have an affirmative duty, within a reasonable and timely
424 period, to assess the presence of mold or condition likely to result in
425 the presence of mold and conduct the required remedial action.

426 Section 24. The requirements of this article shall not apply to
427 properties that are leased or rented where the tenant is contractu-
428 ally responsible for maintenance of the property, including any
429 remedial action.

430 Section 25. Any tenant of a residential, commercial or industrial
431 real property who knows, suspects or is informed that mold is pre-
432 sent in the building, heating system, ventilating or air-conditioning
433 system, or appurtenant structures or that there is a condition of
434 chronic water intrusion or flood, and is responsible for the mainte-
435 nance of the property shall inform the landlord of this knowledge in
436 writing within a reasonable period of time and shall correct the con-
437 dition in compliance with the terms of the contract with the landlord.

438 Section 26. (a) Any public entity that owns, leases, or operates a
439 building shall provide written notice to all building occupants and
440 prospective tenants as specified in subdivision (b) when the public
441 entity knows, suspects, or has reasonable cause to believe, that a
442 condition of chronic water intrusion or flood exists, or that mold,
443 both visible and invisible or hidden, is present that affects the
444 building or unit and the mold either exceeds the permissible expo-
445 sure limits to molds established by subdivisions (a) and (b) of
446 Section 5 or poses a health threat according to the departments
447 guidelines developed pursuant to Section 7.

448 (b) The written notice required by subdivision (a) shall be
449 provided:

450 (1) To prospective tenants as soon as possible and prior to
451 entering into any rental or lease agreement.

452 (2) To current building occupants in affected buildings or units as
453 soon as possible.

454 (c) A public entity shall not be exempt from providing written
455 disclosure to tenants or prospective tenants pursuant to this subdivi-
456 sion if the presence of mold was remediated according to the mold
457 remediation guidelines developed by the department pursuant to
458 Section 16.

459 (d) The requirements of this section shall not apply until the first
460 January 1 or July 1 that occurs six months after the department
461 adopts standards pursuant to Sections 5 and 7 and develop guide-
462 lines pursuant to Section 16.

463 Section 27. Nothing in this chapter shall relieve a seller, trans-
464 feror, lessor, agent, landlord or tenant from any responsibility for
465 compliance with other obligations laws, ordinances, codes, or regu-
466 lations, including but not limited to, the duties outlined in any Sec-
467 tions of Massachusetts Law or Code and any other duties provided
468 for under common law.

469 Section 28. (a) Nothing in this chapter shall affect the existing
470 obligations of the parties or transferor to a real estate contract, or
471 their agents or legal representatives, to disclose any and all facts
472 having any material bearing that affects the value, desirability, or
473 safety, including but not limited to, the physical conditions of the
474 property and previously received reports or knowledge of physical
475 inspections of the property.

476 (b) Nothing in this chapter shall be construed to change the
477 existing inspections and disclosure duties of a real estate broker
478 or salesperson as required by Massachusetts, Federal, consumer or
479 common law.

480 Section 29. The specifications of items for disclosure in this
481 article does not limit or abridge any obligation for disclosure cre-
482 ated by any other provision of law or duties, or which may exist in
483 order to avoid fraud, misrepresentation, or deceit in the transfer
484 transaction.

485 Section 30. All items subject to disclosure requirements pursuant
486 to this article shall be subject to enforcement pursuant to Federal and
487 Massachusetts Consumer, Criminal, Health and Safety and Environ-
488 mental laws.

489 Section 31. The transferor and/or any listing or selling agent shall
490 be held legally and financially liable for any error, inaccuracy, or
491 omission of any information delivered pursuant to this article if the
492 error, inaccuracy or omission was within the knowledge, or if they
493 had a reason to believe, of the transferor or the listing agent or
494 selling agent or realtor.

495 Section 32. Public Health officers, code enforcement officers,
496 environmental health officers and any other appropriate government

497 entities must respond to complaints about mold and must enforce
498 standards adopted by the department pursuant to Sections 5 and 7
499 and disclosure requirements as set forth. The disclosure enforcement
500 guidelines shall impose a fine of one thousand dollars per each inci-
501 dent and one thousand dollars per unit for each failure to disclose in
502 compliance with this article.

503 Section 33. After the Department, pursuant to administrative law
504 procedures, submits the proposed regulations developed pursuant
505 to this chapter, The Department of Consumer Affairs, in consulta-
506 tion with representatives from the Department of Public Health, the
507 Department of Public Safety, the Office of the Attorney General
508 and members of the task force convened by the department pur-
509 suant to Section 3 shall consider and report on the need for the
510 most strict standards for mold testing professionals and mold reme-
511 diation specialists.

512 Section 34. (a) In the event that the mold was a by product, or the
513 result, of construction that is in violation of any local, state or federal
514 building, fire, construction, health, plumbing, electrical or safety
515 codes, and this illegal construction was known or observed, or
516 should have been known or observed or seen, during the construc-
517 tion phase by representatives of the municipal and/or state inspec-
518 tors, the owner of the property affected shall have full legal and
519 financial recourse against the municipality and/or state without any
520 statute of limitations in effect.

521 (b) Should any portion of the municipality and/or state have been
522 made aware of the presence or suspicion of mold, in any way and at
523 any time without any statute of limitations in effect, by the affected
524 owner of the property, or their representatives, the municipal and/or
525 state government shall be legally and financially liable in all aspects
526 and losses, injuries or health related costs or legal costs or other
527 financial losses suffered by the property owner.

528 (c) Should either subsections (a) or (b) be relevant, the property
529 owner will be awarded the sum of one thousand dollars, by the
530 municipality or their agents, for each day that the code violations
531 were known or suspected by the municipality or their inspectors and
532 the sum of five thousand dollars by the state or their agents for each
533 day that the code violations were known or suspected by the state or
534 their inspectors.

535 (d) This Section shall override any other Massachusetts law that
536 holds inspectors and/or the employing municipality or state entity
537 not liable for failures to inspect or for faulty, inaccurate or incom-
538 plete inspections.

