

HOUSE No. 113

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia A. Duffy, (BY REQUEST)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act requiring wireless insurance.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kirstin Beatty</i>	<i>149 Central Park Drive, Holyoke, MA 01040</i>	<i>2/19/2021</i>

HOUSE No. 113

By Ms. Duffy of Holyoke (by request), a petition (accompanied by bill, House, No. 113) of Kirstin Beatty relative to requiring wireless insurance. Advanced Information Technology, the Internet and Cybersecurity.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act requiring wireless insurance.

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 legislature finds and confirms all of the following:-

2 Whereas, recent research indicates wireless can impair health.

3 Whereas, the Federal Communications Commission now allows small 5G antennas
4 serving other users to be placed on private residences without permit under the satellite TV or
5 “OTARD” rule.

6 Whereas, the FCC fails to monitor ambient and near-field wireless exposures of the
7 public.

8 Whereas, insurance serves as an incentive for insurers to regulate and require safety.

9 Resolved, that the policy goals of this act shall be to provide a minimum floor of
10 insurance requirements for wireless infrastructure within the commonwealth.

11 SECTION 15. Chapter 111 of the General Laws as appearing in the 2021 Official Edition
12 is hereby amended by inserting after section 5O the following section:--

13 5O1. (a) Definitions. As used in this section, the following words shall have the
14 following meanings:

15 “Microcells” are the largest and most powerful small cell, often installed by network
16 operators on utility poles, traffic lights, and sign, and include a “small wireless facility” as
17 defined I 47 C.F.R. § 1.6002(l), as may be amended or superseded.

18 “Mobile service” means the same as defined in 47 U.S.C. § 153(33), as may be amended.

19 “Radio communication” or “radio services” means the transmission by radiofrequency of
20 writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities,
21 apparatus, and services (among other things, the receipt, forwarding, and delivery of
22 communications) incidental to such transmission.

23 “Structure” means a pole, tower, base station, or other building, whether or not it has an
24 existing antenna facility, that is used or to be used for the provision of personal wireless service
25 (whether on its own or commingled with other types of services).

26 “Telecommunications service” means the offering of telecommunications for a fee
27 directly to the public, or to such classes of users as to be effectively available directly to the
28 public, regardless of the facilities used.

29 (b) Within the Commonwealth, all providers of transmitting antennas for
30 telecommunications services or for video programming or television broadcast through mobile or
31 radio services are required to carry insurance or, if insurance cannot be obtained, an equivalent

32 bond placed into escrow with an independent escrow agent approved by the either the
33 municipality, if permitted by the municipality, or with an independent escrow agent approved by
34 the radiation regulatory agency. The insurance or the bond must at minimum fulfills the
35 following conditions:

36 (1) Insurance is provided by a licensed third party provider, and not a self-insured
37 indemnity substitute provided by the applicant.

38 (2) If a municipally permitted antenna, the insurance or bond must name the
39 municipality, including its' elected or appointed officials, commission members, officers,
40 representatives, agents, and employees as additional insureds.

41 (3) Coverage shall at minimum include the following:

42 (i) Commercial general liability and property damage insurance on an "occurrence basis"
43 with limits no less than \$5,000,000 aggregate for a structure or \$1,000,000 for a single microcell
44 antenna or \$500,000 for a single antenna falling under the Over-the-Air-Reception-Device
45 regulations set by the Federal Communications Commission, to cover per occurrence bodily
46 injury, property damage, personal injury, advertising injury, premises liability, products liability,
47 contractual liability, and broad form property damage. The policy shall contain no exclusions for
48 (A) contractual liability; (B) cross liability exclusion for claims or suits by one insured against
49 another; (C) products/ completed operations liability; or (D) pollution including electromagnetic
50 pollution; (E) explosion, fire, or collapse; or (F) contain any other exclusion contrary to the
51 intent of this section.

52 (ii) When relevant, include automobile liability covering automobile accident caused by
53 the antenna provider's autos, or if the owner has no owned autos, by that of its agents and others

54 allowed access onto its property, with a limit no less than \$1,000,000 per accident for bodily and
55 property damage.

56 (iii) When relevant, evidence of workers compensation and employer's liability insurance
57 with a limit of no less than \$2,000,000 per accident for bodily injury or disease, including for
58 pollution and electromagnetic pollution.

59 (c) Exception to the insurance requirement described in subsection (b) shall be made for
60 personal digital devices and home or business appliances with transmitting antennas.