

HOUSE No. 146

The Commonwealth of Massachusetts

PRESENTED BY:

Shawn Dooley

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 to create a statewide septic license.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Shawn Dooley</i>	<i>9th Norfolk</i>
<i>Leonard Mirra</i>	<i>2nd Essex</i>
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>

HOUSE No. 146

By Mr. Dooley of Norfolk, a petition (accompanied by bill, House, No. 146) of Shawn Dooley, Leonard Mirra and Donald R. Berthiaume, Jr. relative to septic system licensing. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3213 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to create a statewide septic license.

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. Section 26G of Chapter 111 of the General Laws is hereby repealed.

2 SECTION 2. Said chapter 111, as appearing in the 2012 Official Edition, is hereby
3 amended by inserting after section 31E the following section:-

4 Section 31F. (a) As used in this section the following words shall, unless the context
5 clearly requires otherwise, have the following meanings:—

6 “Division”, the division of professional licensure.

7 “License”, a valid and current certificate of qualification issued by the division which
8 shall give the named person to whom it is issued authority to engage in septic system installation
9 or repair.

10 “Licensee”, a qualified individual holding a license issued by the division.

11 “Licensing procedure”, the process of testing at the state level to determine the
12 knowledge and skill of an individual with respect to septic systems, and the issuing of licenses to
13 indicate that an individual has passed the examinations and met all other division-established
14 qualifications for licensure.

15 “Residential building”, a structure consisting of 1 to 4 dwelling units.

16 “Septic system”, an individual sewage disposal system for a residential building using
17 any system of piping, treatment devices, pumps, alarms, or other facilities or devices that carry
18 or convey, store, treat, or dispose of sewage where the system is not connected to a public sewer.

19 “Septic system installation or repair”, the construction, maintenance, cleaning, servicing,
20 repair or alteration of a septic system in the commonwealth.

21 (b) No individual, business, partnership, or corporation shall engage in septic system
22 installation or repair in the commonwealth unless the individual has received the required license
23 from the division. Licenses issued under this section shall be granted to individuals meeting the
24 criteria for qualification as established by this section and the division.

25 (c) No local official charged with the duty of issuing permits for septic system installation
26 or repair shall issue such permit unless there is presented for inspection a license certificate as
27 provided herein issued by the division to the individual.

28 (d) No license shall be issued except to an individual. A firm, partnership, association, or
29 corporation shall not be licensed. Partnerships, corporations, or other business entities shall
30 designate the licensed individual whose name its business is to operate to the local health

31 officials. If that designated person ceases to be employed by the business entity, notice shall be
32 made immediately to the local health officials. The partnership or corporation shall then have 45
33 days to re-designate a licensed individual responsible for work performed by the business entity.
34 During this 45-day period, no work shall be initiated by the business entity without the
35 knowledge and approval of local health officials. Any work performed during this time shall be
36 inspected by local health officials and approved by the officials before being considered
37 complete and put into operation.

38 (e) License certificates bearing the licensee's name, level and type of license, license
39 number, and the calendar year in which the license is valid shall be issued to all qualified
40 licensees. Every licensee holding a license issued by the division shall display it in a conspicuous
41 manner at his or her principal place of business.

42 (f) All licensees shall abide by all federal, state, and local laws and ordinances. No
43 license issued by the division may be sold or transferred. Any license misused may be revoked
44 by the division.

45 (g) Every licensee shall notify the division of the address of his or her place of business,
46 the cities and towns in which he or she does business or performs work, and the name under
47 which the business is carried on. Licensees shall give immediate notice to the division of any
48 change in this information. Service of any process shall be achieved by mailing notice of such
49 information by first class postage, U.S. Postal Service, to the address of record. No further
50 service of process shall be required.

51 (h) All applicants for licenses, examinations, or license renewals shall be required to
52 complete specific application forms developed and provided by the division. Information

53 required to be provided on license application forms shall include, but not be limited to, the
54 following:

55 (1) the applicant's name, date of birth, Social Security number, residence address,
56 telephone number, and county of residence.

57 (2) the name of the applicant's employer, or the name of the applicant's business,
58 including the business address and telephone number of the employer or applicant's business.

59 (3) details of the applicant's business experience, details of the applicant's work
60 experience, and classroom training in the areas of requested licensing.

61 (4) a signed statement from an official from the applicant's county health department
62 stating that the applicant is in good standing with the local or county health department.

63 (i) Application forms may also require any information deemed by the division to be
64 significant in evaluating the qualifications of an applicant for license, examination, or license
65 renewal.

66 (j) All required fees and documentation shall accompany any application form filed with
67 the division.

68 (k) The division shall approve the issuing of a license to each applicant meeting the
69 qualifications as set forth by the division, or deny a license to each applicant not meeting the
70 qualifications as set forth by the division.

71 (l) The division shall develop eligibility requirements to be met by applicants seeking
72 licensing by the division. The minimum application requirements shall include, but are not
73 limited to, the applicant's:

74 (1) business experience.

75 (2) work experience in the requested area of licensure.

76 (3) completion of training requirements as established by the division.

77 (4) successful completion of the required examination.

78 (5) evidence of bond.

79 (6) proof that the applicant is a citizen of the United States or, if not a citizen of the
80 United States, a person who is legally present in the United States with appropriate
81 documentation from the federal government.

82 (m) No license shall be issued by the division without examination of the applicant for
83 the purpose of ascertaining his or her qualifications for such work. No examination shall be
84 required for the timely annual renewal of a current license.

85 (n) The division shall offer and provide examinations which test the knowledge, skill, and
86 qualifications of the applicants.

87 (o) The division may charge each applicant a reasonable fee for the examination based on
88 the actual costs of administering the examinations.

89 (p) The division shall establish dates and locations for a minimum of 3 separate
90 examinations each calendar year.

91 (q) The division shall establish the minimum examination grade necessary for successful
92 completion of an examination.

93 (r) Examinations shall be administered by the division or persons designated by the
94 division. Any national standardized examination which the division may approve, or any other
95 examination developed under the direction of the division, or any combination thereof, may be
96 administered to applicants to test their knowledge and qualifications. The division shall establish
97 the level of achievement as shall be required for a passing grade for examinations.

98 (s) Written examination results shall be provided within 14 days of taking the
99 examination. Successful candidates shall also be informed of the procedures required to
100 complete the license process. Any person who fails an examination may, upon reapplication and
101 payment of required fees, take the examination when offered by the division.

102 (t) The division shall provide to the department and the appropriate local health
103 authorities a list of all candidates who successfully qualify for a license within 14 days following
104 the date the license is issued by the division.

105 (u) A license is only valid during the calendar year indicated on the license. At the end of
106 that calendar year, the license will expire unless it is renewed by the licensee. All licensees shall
107 make application for license renewal at least 30 days prior to the expiration of a current license.

108 (v) Specific license renewal application forms and license renewal requirements shall be
109 developed by the division. License renewal requirements shall include, but not be limited to,
110 continuing education and training requirements and evidence of adequate bond. The license
111 renewal application form shall be accompanied by all required documentation and renewal fees.
112 The division shall verify that the renewal applicant is a current licensee who is eligible for
113 renewal before issuing a new license.

114 (w) Failure to meet renewal requirements shall result in expiration and revocation of a
115 license. Upon expiration of a license, the licensee's name shall be removed from the division's
116 official list and the department and the appropriate local health authorities will be notified of the
117 license expiration. A license which has expired for failure to renew may only be restored within
118 1 year from the date of expiration after application and payment of the license restoration fee
119 established by the division. Any license which has not been restored within 1 year following its
120 expiration may not be renewed, restored, or reissued, and the holder may apply for and obtain a
121 new license only upon compliance with all qualifications and requirements for the issuance of a
122 new license.

123 (x) The division shall establish criteria for circumstances warranting the suspension or
124 revocation of a license and establish the procedures for suspension or revocation of licenses.
125 These circumstances shall include, but not be limited to, the following:

126 (1) Obtaining a license under false pretense.

127 (2) Obtaining a license by having another person take the examination.

128 (3) Allowing another person to use the license in violation of the regulations of the
129 division.

130 (4) Selling or conveying the license to another person.

131 (5) Failure to timely renew a license.

132 (6) Failure to follow the rules and regulations of the department or the appropriate local
133 health department or authorities.

134 (7) Committing a dishonest or illegal act in the performance of work covered under the
135 license.

136 The division shall take appropriate action to enforce the rules adopted with regard to
137 license suspension or revocation. After suspension or revocation of a license of any licensee, the
138 division shall publish this information to the public.

139 (y) Whoever undertakes or attempts to undertake septic system installation or repair
140 without first having obtained and having possession of a current, valid license from the division
141 or who knowingly presents or files false information with the division for the purpose of
142 obtaining a license or otherwise fraudulently obtains a license, or who knowingly violates any
143 provision of this chapter regulating the onsite sewage industry shall be punished by
144 imprisonment in the house of correction for not more than 2½ years or by a fine of not more than
145 \$20,000 or by both.