

HOUSE No. 3780

The Commonwealth of Massachusetts

PRESENTED BY:

Tami L. Gouveia

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 establishing a statewide COVID-19 rapid testing program to safely re-open our economy.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/19/2021</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>3/3/2021</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>3/17/2021</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>5/14/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>5/14/2021</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>5/17/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>5/17/2021</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>5/19/2021</i>

HOUSE No. 3780

By Ms. Gouveia of Acton, a petition (accompanied by bill, House, No. 3780) of Tami L. Gouveia and others for legislation to establish a statewide COVID-19 rapid testing program within the Department of Public Health. Covid-19 and Emergency Preparedness and Management.

The Commonwealth of Massachusetts

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

An Act establishing a statewide COVID-19 rapid testing program to safely re-open our economy.

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 Court hereby finds and declares that:

2 (1) on March 11, 2020, the World Health Organization declared COVID-19 a global
3 pandemic necessitating the worldwide implementation of measures, such as mask wearing,
4 physical distancing, school and business restrictions and closures, frequent handwashing,
5 COVID-19 testing and contact tracing to protect the public’s health and prevent the spread of
6 SARS-CoV-2, also known as COVID-19;

7 (2) on March 10, 2020, Governor Charles D. Baker declared a state of emergency and has
8 since issued more than 50 orders and accompanying guidelines and mitigation strategies to
9 protect public health and prevent the spread of SARS-CoV-2;

10 (3) uncertainty due to frequent changes in restrictions and guidance affects the economic
11 stability of businesses and communities, as well as the mental health status and stress levels of
12 individuals and families;

13 (4) economic instability, mental health strain and other concerns about learning time and
14 quality create mounting pressures to re-open schools for in-person learning and businesses in the
15 commonwealth;

16 (5) black, indigenous and people of color have been disproportionately impacted by the
17 spread of SARS-CoV-2 and economic consequences of the pandemic in their residential and
18 work communities;

19 (6) innovative testing and other tools are needed to protect worker health and public
20 health from the spread of SARS-CoV-2, including the spread of new variants, as reopening plans
21 are implemented and the vaccine is being rolled out;

22 (7) the state's current Polymerase Chain Reaction, also known as PCR, testing approach
23 requires individuals to quarantine or isolate while awaiting test results, unnecessarily
24 contributing to reduced worker and economic productivity and strain on family functioning and
25 caregiving;

26 (8) rapid antigen tests: (i) can be self-administered or administered by trained personnel;
27 (ii) can be administered in a high-throughput setting, such as a clinic, in school, in workplaces
28 and congregate care settings; (iii) can be administered at home; (iv) require simple equipment to
29 process; (v) test for COVID-19 contagiousness; (vi) cost an average of \$5 per test and some
30 tests cost as low as \$1 per test with bulk purchasing; (vii) produce test results in minutes;

31 (9) the Food and Drug Administration has authorized several rapid test products for over-
32 the-counter use without a prescription for asymptomatic individuals and the Biden administration
33 acknowledges that regular screening with at-home COVID-19 tests can strengthen our
34 prevention efforts;

35 (10) the Centers for Disease Control and Prevention and the National Institutes of Health
36 recently launched an at-home rapid antigen testing pilot program and voluntary, community-
37 based, government-funded testing programs have been piloted in New York, San Francisco,
38 Philadelphia, the United Kingdom, Germany, Austria, Denmark and other locations with
39 promising results; and

40 (11) children will not be vaccinated until the end of 2021, the new variants are spreading
41 in the commonwealth, and between 1/3 and up to 3/4 of SARS-CoV-2 infections are
42 asymptomatic;

43 SECTION 2. As used in this act, the following terms shall, unless the context clearly
44 requires otherwise, have the following meanings:-

45 “BIPOC”, black, indigenous and people of color.

46 “Board”, the Rapid Antigen Testing Advisory Board established pursuant to section 3.

47 “Community spread”, occurs when individuals become infected with COVID-19 without
48 any known contact with a sick person.

49 “Department”, the department of public health.

50 “Entrance screening for COVID-19”, screening that is required by employers,
51 government agencies, schools, institutions of public higher education, stores, sports and

52 entertainment venues, airports and transportation hubs, borders and ports of entry, prisons,
53 congregate care settings, homeless shelters and long-term care organizations before employees,
54 volunteers, contract workers, patrons, students or visitors may enter the facility.

55 “Polymerase Chain Reaction test” or “PCR test”, a test conducted by specially trained
56 staff using swabbing or other sample collection methods and laboratory testing equipment for
57 medical diagnostic purposes. PCR tests identify small amounts of viral genetic material with
58 high degrees of specificity, but in many cases, individuals may no longer be infectious for
59 COVID-19.

60 “Population screening for COVID-19”, screening in which more than half of the
61 population self-administers rapid antigen tests 2 to 3 times a week at home or through other
62 accessible locations, including, but not limited to: schools, institutions of public higher
63 education, workplaces, congregate care settings, community health centers, community
64 organizations, mobile clinics and faith-based institutions, among others in order to reduce the
65 spread of SARS-CoV-2, including emerging variants.

66 “Public health surveillance”, the ongoing and systematic collection, analysis and
67 interpretation of health-related data essential to informing the decision-making of those
68 responsible for planning, implementing, communicating and evaluating interventions to prevent
69 and control the spread of disease or injury. Public health surveillance programs directly measure
70 what is going on in the population and inform the need for adjustments in interventions in order
71 to protect the public’s health from disease or injury.

72 “Rapid antigen test”, a test used for screening and public health surveillance purposes in
73 which self-administered shallow anterior nasal swabs are used to detect proteins, also known as

74 antigens, on the surface of the virus. Rapid antigen tests are up to 90 per cent sensitive for
75 detecting the peak of infection in a person with high levels of the virus and are effective at
76 identifying individuals who are contagious. Rapid antigen tests can be conducted at home, at
77 entrances to buildings, at point-of-care locations and at the offices of healthcare and other
78 providers.

79 SECTION 3. (a) There is hereby established a Rapid Antigen Testing Advisory Board.
80 The board shall:

81 (1) research existing community-based antigen testing models, in the United States
82 and globally, and make evidence-informed recommendations to the department on implementing
83 a statewide rapid antigen testing program;

84 (2) research entrance screening policies, in the United States and globally, and make
85 evidence-informed recommendations to the department on developing guidelines for public and
86 private establishments to implement rapid antigen entrance screening policies and practices; and

87 (3) make recommendations to the department on signage, radio, television and digital
88 advertising and other media and outreach strategies to inform the public about the locally-run,
89 community-based rapid antigen testing program.

90 (b) The board shall consist of the following 18 members: 1 member appointed by the
91 Coalition for Local Public Health, who shall be the head of a member organization and shall
92 serve as chair; 5 members to be appointed jointly by the speaker of the house of representative
93 and the senate president, 1 of whom shall have expertise in rapid antigen testing, 1 of whom shall
94 have expertise in health equity, 1 of whom shall have expertise in implementation science, 1 of
95 whom shall have expertise in infectious diseases and 1 of whom shall have expertise in privacy

96 and data reporting; 1 member to be appointed by the Black Economic Council of Massachusetts,
97 Inc.; 1 member to be appointed by the Latino Health Institute, Inc.; 1 member to be appointed by
98 the Massachusetts School Nurse Organization, Inc.; 1 member to be appointed by the district
99 director of the Boston district office of the United States Small Business Administration; 1
100 member to be appointed by the Massachusetts Coalition for Occupational Safety and Health,
101 Inc.; 1 member to be appointed by The Massachusetts League of Community Health Centers,
102 Inc.; 1 member to be appointed by the Massachusetts Teachers Association; 1 member to be
103 appointed by the Massachusetts Immigrant and Refugee Advocacy Coalition, Inc.; 1 member to
104 be appointed by the Massachusetts chapter of the National Association of Social Workers, Inc.; 1
105 member to be appointed by the Greater Boston Interfaith Organization, Inc.; 1 member to be
106 appointed by Prisoners' Legal Services of Massachusetts; and 1 member appointed by the Arc of
107 Massachusetts.

108 In making appointments to the board, preference shall be given to appoint BIPOC
109 individuals and those from low-income, indigenous and immigrant communities.

110 (c) The board shall hold its first meeting within 30 days of effective date of this act. The
111 board shall make recommendations and submit a report to the department, the COVID-19
112 response command center, the joint committee on COVID-19 and emergency preparedness and
113 management, the joint committee on public health, the clerks of the house of representatives and
114 the senate within 60 days of its first meeting. The report shall include: (i) recommendations on a
115 comprehensive, voluntary and locally-run, community-based antigen testing program, including
116 options for providing test kits and training residents and employees at locally trusted institutions,
117 organizations, businesses and faith-based organizations; (ii) recommendations on a
118 comprehensive, accessible, linguistically and culturally appropriate, inclusive communications

119 plan; and (iii) process and outcomes monitoring plans and key metrics, such as number of tests
120 distributed, number of follow-up PCR tests conducted after a positive rapid antigen test result,
121 number and percent of tests conducted by county, community and location type and number of
122 infections prevented. The purpose of the communications plan is to inform the commonwealth's
123 diverse population of the: (i) purpose and public health benefits of rapid antigen testing; (ii)
124 where and how to access free tests; (iii) how to use the tests at-home, in schools, in workplaces,
125 and in other settings; and (iv) what to do if the test result is positive. The board shall make
126 recommendations to guide implementation of accessible communications strategies, including,
127 but not limited to: (i) information tables at community festivals, fairs, events, and community
128 meetings; (ii) outreach through trusted institutions, popular opinion leaders and trusted political
129 figures who represent racially and ethnically diverse populations; (iii) disbursement of low
130 literacy fliers and brochures that are translated and disseminated into the top ten most frequently
131 spoken languages in the state, as well as through print, radio, digital and television media.

132 (d) The board shall meet monthly to monitor implementation of the rapid antigen testing
133 program and to make recommendations to the department on adjustments to be made to the
134 program. The board shall disband within 30 days following the termination of the governor's
135 March 10, 2020 declaration of a state of emergency. Within 90 days after the termination of the
136 state of emergency, the department shall submit a report detailing process and outcomes
137 measures, as well as key metrics, including, but not limited to: the number of tests distributed;
138 the number of follow-up PCR tests conducted after a positive rapid antigen test result; the
139 number and percent of tests conducted by county, community, and location type; and the number
140 of infections prevented as a result of rapid antigen testing.

141 SECTION 4. (a) The department shall develop guidelines for the implementation of
142 locally-run, community-based, voluntary antigen testing based on the direct recommendations
143 made by the board. The guidelines shall include information on: (1) appropriate testing
144 frequency; (2) how to recruit and train supporters who can to train others to perform testing; (3)
145 how to build local support for and individual commitment to interpreting results responsibly; (4)
146 how to connect individuals with confirmatory PCR testing as needed; (5) how to ensure safe and
147 private reporting of testing results to local public health departments and as well as to
148 individuals; (6) how to ensure that results are reported appropriately to health departments to
149 support pandemic response efforts; (7) how to help individuals isolate and obtain financial and
150 other support; and (8) determine which metrics trigger changes in testing frequency. The
151 guidelines shall encourage, rather than discourage testing. The guidelines shall include
152 information on how best to implement a local testing program that provides easy access to all
153 residents in the commonwealth. Guidelines shall include metrics that may indicate the need to
154 change the frequency of rapid antigen testing, such as the number or percentage of positive tests
155 in a school or workplace environment occurring within a certain period of time.

156 (b) The program shall make rapid antigen testing kits available free of charge to
157 individuals at convenient locations, including, but not limited to: pop-up sites, mobile clinics,
158 pharmacies, drug stores, bodegas, grocery stores, community centers, doctor's offices,
159 vaccination sites, community health centers, hospitals, skilled nursing facilities, prisons and
160 correctional facilities, congregate care settings, homeless shelters, faith organizations, local
161 government offices, organizations serving elders, social service organizations, government
162 agencies, schools, colleges and universities, summer camps, local housing authorities and
163 transportation hubs, including commuter rail, Logan Airport, bus stations and the subway. The

164 department shall also devise plans for mailing rapid antigen testing kits to individuals and
165 households.

166 (c) The cost of rapid antigen testing kits, including shipping, will be covered by insurance
167 companies and with funds dispersed through the General Fund. Grant funded programs may also
168 be created for the purposes of ensuring local access to testing kits.

169 SECTION 5. The department shall devise guidelines for entrance screening, including the
170 use of temperature checks, screening questions and rapid antigen testing.

171 The department guidelines shall be incorporated into any entrance screening policy
172 developed by restaurants, indoor workplaces, indoor recreational facilities, social service
173 agencies, government agencies, schools, institutions of public higher education, places of
174 worship, congregant care settings, homeless shelters, prisons and correctional facilities and other
175 establishments that intend to implement an entrance policy that includes rapid antigen testing.
176 Entities that devise an entrance screening policy may ask entrants if they have experienced any
177 symptoms for COVID-19 in the past 48 hours. An entrance screening policy may require a
178 temperature check and a negative rapid antigen test before entry is allowed. The entrance
179 screening policy must rely on guidance developed by the department and be prominently
180 displayed on the entity's website, social media sites and in the front entryway of the
181 establishment in multiple languages. The entrance screening policy shall not discriminate
182 because of race, color, religion, national origin, ancestry, sex, sexual orientation or gender
183 identity. A violation of this section shall be a violation of section 98 of chapter 272 of the
184 General Laws.

185 SECTION 6. Pursuant to chapter 151B of the General Laws, workplace retaliation
186 against any worker and discrimination against any individual who tests positive using a rapid
187 antigen test is strictly prohibited. All local testing policies or program guidelines developed
188 pursuant to section 4 shall include an anti-discrimination clause and an anti-retaliation clause.

189 SECTION 7. Within 1 day of the effective date of this act, the commissioner of the
190 department and the governor shall take any necessary actions to facilitate the acquisition of
191 Clinical Laboratory Improvement Amendment certificates for multi-site use, including in all
192 public and private schools, institutions of public higher education, places of employment,
193 governmental institutions, indoor dining and recreational facilities, places of worship and other
194 locations and facilities where a public health surveillance or entrance screening plan is
195 warranted.

196 SECTION 8. To support public health efforts, manufacturers of rapid antigen tests
197 located in the commonwealth will be prioritized for the sale and distribution of rapid antigen test
198 kits to organizations, institutions and municipalities located and doing business inside the
199 commonwealth, unless a contractual agreement has been made with entities outside the United
200 States and territories for sales and distribution of rapid antigen test kits. The commonwealth will
201 explore efforts to negotiate bulk purchases of high quality rapid antigen tests from manufacturers
202 for distribution within the commonwealth.

203 SECTION 9. Notwithstanding any general or special law to the contrary, the
204 implementation of rapid antigen test programs under this act shall be consistent with chapter
205 150E of the General Laws or any agreements entered into in accordance with said chapter 150E.

206 SECTION 10. There shall be established on the books of the commonwealth the Rapid
207 Antigen Testing Trust Fund to be administered by the commissioner of the department. There
208 shall be credited to the fund all revenues or other financing sources directed to the fund by
209 appropriation and any income derived from the investing of all amounts credited to the fund.
210 Monies credited to the fund may be expended by the commissioner, without further
211 appropriation, for rolling out the rapid antigen testing program.

212 SECTION 11. Section 8 shall be repealed upon federal approval of rapid antigen testing
213 for public health surveillance and asymptomatic purposes.