

SENATE No. 01134

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

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 passage of the accompanying bill:

An Act relative to Cimex Lectularius .

PETITION OF:

NAME:

Richard T. Moore

DISTRICT/ADDRESS:

Worcester and Norfolk

SENATE No. 01134

By Mr. Moore, petition (accompanied by bill, Senate, No. 1134) of Moore for legislation relative to Cimex Lectularius [Joint Committee on Public Health].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to Cimex Lectularius .

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. Definitions

2 A. For purposes of this section:

3 “Bed bug” means an insect of the species “Cimex Lectularius,” commonly

4 referred to as a bed bug;

5 “Control” means the process required by a professional pesticide applicator to attempt to

6 eliminate or manage an infestation of bed bugs by poisoning, spraying, fumigating, trapping or

7 by any other recognized and lawful pest-elimination method, including repeated applications of

8 any treatment, particularly to areas where bed bugs are likely to congregate. Control of bed bugs

9 shall be deemed completed if there has been no evidence of bed bug activity for thirty (30)days

10 after the last application of any treatment;

11 “Infestation” means the presence of bed bugs, or signs of their presence, in a quantity large
12 enough that the tenant of a dwelling unit has knowledge or should have had knowledge of the
13 presence of bed bugs in the dwelling unit;

14 “Surrounding Unit” means a unit or units that share a common wall or are located above or
15 below;

16 “Owner” and “Tenant” shall have the same meaning as defined in 105 CMR 410;

17 “Certified Applicator” shall have the meaning provided in G.L. 132B;

18 This Act shall not apply to dwellings containing one dwelling unit.

19 SECTION 2.

20 At such time as a landlord shall have actual or constructive knowledge of the
21 infestation of bed bugs in a dwelling unit, the landlord shall be required to maintain the dwelling
22 unit free of an infestation of bed bugs.

23 Any tenant that asserts that an infestation of bed bugs is present in the tenant’s
24 dwelling unit shall immediately provide notice to the landlord in writing.

25 Within five (5) business days of receiving a notice from any tenant of an infestation of
26 bed bugs, the landlord shall perform a visual inspection of the dwelling unit. In the event the
27 landlord observes the presence of any bed bugs or other evidence of the existence of bed bugs in
28 the dwelling unit, the landlord shall commence the Extermination Protocol. In the event the
29 landlord is issued a citation by any state, city, or town inspector indicating the existence of bed
30 bugs, the landlord shall commence the Extermination Protocol.

31 A landlord shall be deemed to have constructive knowledge of an infestation of bed
32 bugs in the event the landlord is aware of an infestation of bed bugs in any Surrounding Unit.

33 SECTION 3.

34 Within ten (10) business days, the landlord shall retain the services of a Certified
35 Applicator to inspect the dwelling unit to confirm the presence of an infestation of bed bugs. In
36 the event the Certified Applicator fails to observe an infestation of bed bugs, the landlord shall
37 have no further obligation to perform further inspections for bed bugs in the dwelling unit unless
38 the tenant provides the landlord with a written report from a Certified Applicator identifying the
39 existing of an infestation of bed bugs in the dwelling unit.

40 In the event a Certified Applicator identifies an infestation of bed bugs in a dwelling
41 unit, the landlord shall perform such treatments and extermination services as may be required
42 by the Certified Applicator. The landlord shall then perform such further treatments and
43 exterminator services as may be required by the Certified Applicator until such time as the
44 control of the bed bugs shall be deemed to be completed.

45 The Landlord shall perform a visual inspection for an infestation of bed bugs no later
46 than thirty (30) days after the Certified Applicator indicates that the control of the bed bugs has
47 been completed. In the event that the landlord fails to observe the presence of bed bugs at such
48 inspection, the extermination of bed bugs shall be complete.

49 SECTION 4.

50 Any tenant that occupies a dwelling unit that is infested with bed bugs, shall:

51 (1) Notify the landlord in writing immediately after being aware of the
52 presence of bedbugs;

53 (2) Allow the landlord, as well as its agents, inspectors, Certified
54 Applicators, and contractors, to enter the dwelling unit to perform inspections, repairs,
55 exterminations, and applications, upon not less than twenty-four (24) hours notice;

56 (3) Within a reasonable period of time after receipt of notice from the
57 Certified Applicator, comply with any and all protocols and instructions afforded to tenant by the
58 Certified Applicator, including without limitation, encasing and sealing personal property in
59 plastic bags, laundering personal property, removing personal property which may be to be
60 infested with bed bugs; and removing unreasonable amounts of personal property which are
61 deemed to be interfering with the proper treatment of the bed bugs by the Certified Applicator.
62 No tenant shall interfere with the Certified Applicator's performance of any extermination or
63 inspection.

64 Any tenant that fails to provide access to the dwelling unit, interferes with any inspection or
65 extermination, or fails to comply with the protocols and/or instructions of the Certified
66 Applicator, shall be responsible for any actual and consequential damages incurred by the
67 landlord as a result of such denials. In addition, a landlord shall be entitled to the issuance of
68 injunctive relief against any such tenant, including an order prohibiting a tenant from occupying
69 a dwelling unit during the period that the Certified Applicator is performing any required
70 exterminations.

71 SECTION 5.

72 Notwithstanding any statute to the contrary, no landlord shall be liable for any actual or
73 consequential damages caused by an infestation of bed bugs unless the landlord fails to comply
74 with the requirements of this Act.

75 Any tenant that fails to comply with the requirements of this Act, shall be responsible for the
76 actual and consequential damages incurred by the landlord as a result of such non-compliance.
77 The failure to provide access as required, interfering with any inspection or extermination, and/or
78 failure to comply with the protocols and/or instructions of a Certified Applicator, shall also be
79 constitute sufficient grounds upon which to terminate a tenancy.

80 Nothing herein shall prevent the landlord and tenant from entering into an agreement assigning
81 other duties and obligations in relation to the costs and duties pertaining to bed bug controls.

82 SECTION 6.

83 The Department of Public Health shall prepare a pamphlet that describes bed bugs and
84 explains how bed bug infestations spread.

85 This pamphlet may contain additional information the Department deems necessary
86 and may be revised by the Department at such time as new information concerning bed bugs
87 becomes available.

88 The pamphlet shall contain the following information:

89 (1) Specific facts about bedbugs, including its appearance, breeding and feeding habit;

90 (2) Tenant behaviors that are risk factors for attracting and supporting the presence of
91 bedbugs such as, but not limited to, purchasing renovated mattresses, used furniture or pre-owned
92 clothing, and travel to tropical climates without proper precautions;

93 (3) Measures that may be taken to prevent and control bedbugs in a residential setting
94 including professional pest control exterminating, cleaning the dwelling space and mattresses,
95 and laundering bedclothes and clothing;

96 (4) The pamphlet shall contain, in conspicuous form, the following statement: “Pest
97 extermination for bed bugs may only be performed by a person that is certified by the
98 Commonwealth as being authorized to apply pesticides.”

99 (5) The pamphlet shall contain, in a conspicuous form, the following statement: “It is
100 your landlord’s duty to keep the premise free of the presence of bed bugs at such time as the
101 landlord becomes aware of their presence.”

102 (6) The pamphlet shall contain, in a conspicuous form, the following statement: “You
103 may be responsible for the cost of control of bed bugs if you cause an infestation or interfere
104 with extermination process.”

105 (7) The pamphlet shall contain, in a conspicuous form, the following statement: “If
106 you notice or suspect the presence of bedbugs in your unit, you must promptly notify the owner
107 or manager of your unit in writing.”

108 (8) The pamphlet shall contain, in a conspicuous form, the following statement:
109 “Upon reasonable notice, you must grant the landlord of your apartment, their agent or the
110 landlord’s pest control company and its employees, access to the apartment for purposes of an
111 inspection for or the control of the infestation of bed bugs. This inspection may include a visual
112 inspection and manual inspection of your personal belongings, limited to bedding and furniture.
113 If bed bugs are found in the unit, additional access and measures may be required. If you do not
114 grant your landlord access for purposes of an inspection or the control of the presence of bed

115 bugs or if you obstruct access for purposes of visual inspection, your landlord shall not be
116 responsible for any costs and damages relating to and arising from bed bugs in your unit and you
117 may be imposed certain costs and expenses relating to your failures.”

118 (9)The pamphlet shall contain, in a conspicuous form, a statement describing the legal
119 rights and obligations imposed on tenants and landlords per this Act.

120 The Department shall make the pamphlet available at no cost to landlords, tenants, and
121 members of the general public, in a form suitable for distribution to landlords for their use in
122 tenant bed bug education.

123 (1) The department shall make the pamphlet available in both English and Spanish
124 languages.

125 (2) The department shall post the pamphlet on the department’s Internet website, in an
126 easily printable format.

127 The pamphlet shall serve as an informational document only, and nothing therein shall be
128 construed as binding on or affecting a judicial determination related to this Act. The pamphlet
129 shall not be deemed to be medical advice.