

## SENATE, NO. 2485

[Senate, June 18, 2010 - New draft of Senate, No. 387 and House, No. 3574 reported from the committee on Environment, Natural Resources and Agriculture.]



## The Commonwealth of Massachusetts

\_\_\_\_\_  
IN THE YEAR OF TWO THOUSAND AND TEN  
\_\_\_\_\_

### AN ACT TO REVITALIZE URBAN CENTERS.

*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.** Chapter 21E, Section 2 of the General Laws, as appearing in the most recent  
2    edition, is hereby amended by inserting the following new definition following the definition of “Act of  
3    God”:

4           “Background,” those levels of oil and hazardous material that would exist in the absence of the  
5    disposal site of concern which are either:

6           (a) ubiquitous and consistently present in the environment at and in the vicinity of the disposal  
7    site of concern, and attributable to geologic or ecological conditions, the presence of historic fill,  
8    or atmospheric deposition of industrial process or engine emissions;

- 9 (b) attributable to coal ash or wood ash associated with fill material;
- 10 (c) releases to groundwater from a public water supply system;
- 11 (d) petroleum residues that are incidental to the normal operation of motor vehicles; or
- 12 (e) in the case of residences, are consistent with typical residential indoor air concentrations.

13 **SECTION 2.** Chapter 21E, Section 2 of the General Laws, as appearing in the most recent  
14 edition, is hereby amended by inserting the following new definition following the definition of  
15 “Hazardous material”:

16 “Historic fill,” disturbed soil or fill material placed prior to the effective date of MGL c. 21E, and  
17 containing arithmetic mean (average) concentrations of oil and hazardous materials consistent with the  
18 average concentrations expected for this type of material.

19 **SECTION 3.** Chapter 21E, Section 2 of the General Laws, as appearing in the most recent  
20 edition, is hereby amended by deleting the existing definition of “Release,” and inserting in its place the  
21 following new definition:

22 "Release", any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting,  
23 escaping, leaching, dumping or disposing into the environment, but excludes: (1) emissions from the  
24 exhaust of an engine, (2) release of source, by product, or special nuclear material from a nuclear  
25 incident, as those terms are defined in 42 USC Sec. 2014, if such release is subject to requirements with  
26 respect to financial protection established by the Nuclear Regulatory Commission under 42 USC Sec.  
27 2210, (3) the normal application of fertilizer, (4) the application of pesticides consistent with their  
28 labeling, (5) the placement of historic fill, and (6) releases resulting from the normal use of household  
29 products containing oil or hazardous materials.

30           **SECTION 4.** Chapter 21E, Section 2 of the General Laws, as appearing in the most recent  
31 edition, is hereby amended by inserting the following new definition following the definition of “Trade  
32 secret”:

33           “Typical residential indoor air concentrations,” those concentrations of oil and hazardous material  
34 typically found in indoor air in residences, as determined from time to time by the Department.

35           **SECTION 5.** Within ninety (90) days of the effective date of said amendment, the Department  
36 shall promulgate regulations revising 310 CMR 40.0006 to be consistent with Sections 1 through 4 above.

37           **SECTION 6.** Said Chapter 21E, Section 3A is further amended in Subsection (g) by deleting the  
38 second sentence of the fourth paragraph thereof and replacing it with the following:

39           “Where feasible, a permanent solution which involves the implementation of a measure or  
40 combination of measures to attain a condition of No Significant Risk shall also include a measure or  
41 measures designed to reduce, to the extent possible, the level of oil or hazardous materials associated with  
42 the release to background.”