

SENATE No. 648

The Commonwealth of Massachusetts

PRESENTED BY:

Anne M. Gobi

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 relative to the remediation of home heating oil releases.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Anne M. Gobi</i>	<i>Worcester and Hampshire</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/15/2023</i>

SENATE No. 648

By Ms. Gobi, a petition (accompanied by bill, Senate, No. 648) of Anne M. Gobi and Michael O. Moore for legislation relative to the remediation of home heating oil releases. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 676 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to the remediation of home heating oil releases.

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 175 of the General Laws is hereby amended by striking out section
2 4D, as appearing in the 2022 Official Edition, and inserting in place thereof the following
3 section:-

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

6 “Liquid fuel tank”, a tank in which heating oil is stored and from which heating oil is
7 delivered or pumped through a fuel supply line to an oil burner, whether located within a
8 dwelling or other structure, including tanks installed at or below grade level or located outdoors
9 but excluding underground tanks wherever located.

10 “Residential property”, a 1-unit to 4-unit dwelling used for living or sleeping.

11 (b) (1) The joint underwriting association formed pursuant to section 4 of chapter 175C
12 and any insurer licensed to write and engaged in the writing of homeowners’ insurance shall
13 provide the following coverage to owners of residential property to whom a homeowners’
14 insurance policy is issued or renewed: (i) first-party property coverage for response action costs
15 incurred under chapter 21E or chapter 21K or any regulation promulgated pursuant to
16 said chapter 21E or chapter 21K and property damage on the insured’s residential property
17 caused by or in response to a release of heating oil from a residential liquid fuel tank or any
18 piping, fuel supply lines, equipment or systems connected thereto; and (ii) liability coverage for
19 third-party claims arising out of a release of heating oil into the environment.

20 (2) For the purposes of this section, first-party property coverage shall include response
21 action costs incurred to assess and remediate a heating oil release impacting soil, indoor air or
22 other environmental media on the insured’s residential property and the reimbursement of any
23 associated personal property damage. For the purposes of this section, third-party liability
24 coverage shall include: (i) the obligation to defend the insured at the insurer’s expense against
25 third-party claims; provided, however, that such defense obligation shall include coverage
26 for costs incurred to investigate the source and extent of the release of heating oil; and (ii)
27 response action costs incurred to address conditions on and off the insured’s residential property
28 arising from a heating oil release on the insured’s residential property that has impacted, or is
29 likely to impact, groundwater or has migrated to, or is likely to migrate to, a third-party’s
30 property.

31 (3) First-party property coverage and third-party liability coverage shall apply
32 simultaneously and in addition to each other when both coverages are applicable. Insurers
33 may include a reasonable charge for such coverage in premiums applicable to all homeowners'
34 insurance policies. The minimum coverage shall be \$75,000 per occurrence for first-party
35 property coverage and \$250,000 per occurrence for third-party liability coverage, subject to
36 a reasonable deductible not to exceed \$1,000 per claim.

37 (c) Notwithstanding subsection (b), the joint underwriting association and an insurer may
38 include an exclusion in homeowners' insurance policies from the coverages required pursuant
39 to said subsection (b) where the heating oil release would not have occurred but for the
40 owner's failure to comply with the requirements of said subsection (b) or subsection (c) of
41 section 38J of chapter 148, or any regulations promulgated pursuant to said subsection (b) or said
42 subsection (c) of said section 38J of said chapter 148; provided, however, that the joint
43 underwriting association or insurer has provided an annual written notice to the insured that
44 explains, in at least 16-point type, such requirements under said chapter 148, and any regulations
45 promulgated thereto, on a separate form approved by the division of insurance.

46 SECTION 2. This act shall apply to policies issued or renewed on or after January 1,
47 2024.