

SENATE No. 802

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Keenan

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 cimex lectularius.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|-----------------------|-----------------------------|------------------|
| <i>John F. Keenan</i> | <i>Norfolk and Plymouth</i> | |
| <i>Mark J. Cusack</i> | <i>5th Norfolk</i> | <i>1/17/2019</i> |

SENATE No. 802

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 802) of John F. Keenan and Mark J. Cusack for legislation relative to bed bugs. Housing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 726 OF 2017-2018.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

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. (a) For purposes of this section the following words shall have the
2 following meanings, unless the context clearly requires otherwise:

3 “Bed bug” means an insect of the species “Cimex Lectularius,” commonly referred to as
4 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, provided that the
9 department of public health may recommend and issue standards on treatment methods as they
10 see fit based on the availability of updated information and science. Control of bed bugs shall be

11 deemed completed if there has been no evidence of bed bug activity for thirty (30) days after the
12 last application of any treatment;

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

16 “Surrounding unit” means a unit or units that share a common wall or are located above
17 or below;

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

19 “Certified Applicator” shall have the meaning provided in chapter 132B;

20 (b) This act shall not apply to dwellings containing one dwelling unit.

21 SECTION 2. (a) Notwithstanding any general or special law to the contrary, any tenant
22 that asserts that an infestation of bed bugs is present in the tenant’s dwelling unit shall: (1)
23 immediately provide notice to the owner in writing after becoming aware of the presence of bed
24 bugs; (2) allow the owner, as well as its agents, inspectors, certified applicators, and contractors,
25 to enter the dwelling unit to perform inspections repairs, exterminations, and applications, upon
26 not less than 24 hour notice; (3) within a reasonable period of time after receipt of notice from
27 the certified applicator, comply with any and all protocols and instructions afforded to tenant by
28 the certified applicator, including without limitation, encasing and sealing personal property in
29 plastic bags, laundering personal property, removing personal property which may be to be
30 infested with bed bugs; and removing unreasonable amounts of personal property which are
31 deemed to be interfering with the proper treatment of the bed bugs by the certified applicator.

32 No tenant shall interfere with the certified applicator's performance of any extermination or
33 inspection.

34 (b) Any tenant that fails to provide access to the dwelling unit, interferes with any
35 inspection or extermination, or fails to comply with the protocols and/or instructions of the
36 certified applicator, shall be responsible for any actual and consequential damages incurred by
37 the owner as a result of such denials. In addition, an owner shall be entitled to the issuance of
38 injunctive relief against any such tenant, including an order prohibiting a tenant from occupying
39 a dwelling unit during the period that the certified applicator is performing any required
40 exterminations.

41 SECTION 3. Notwithstanding any special or general law to the contrary, at such time as
42 an owner shall have actual or constructive knowledge of the infestation of bed bugs in a dwelling
43 unit, the owner shall be required to maintain the dwelling unit free of an infestation of bed bugs.

44 Within 5 business days of receiving a notice from any tenant of an infestation of bed
45 bugs, the owner shall perform a visual inspection of the dwelling unit. In the event the owner
46 observes the infestation of bed bugs in the dwelling unit, the owner shall commence the
47 extermination protocol and notify the tenants of any surrounding units. In the event the owner is
48 issued a citation by any state, city, or town inspector indicating the existence of bed bugs, the
49 owner shall commence the extermination protocol.

50 In the event that an infestation is present in a dwelling unit within a building with a
51 manager or organization of unit owners as defined by section 1 of chapter 183A of the General
52 Laws, the owner of the infested unit shall immediately provide notice to the manager or
53 organization of unit owners, who shall then provide notice in writing to the surrounding units.

54 An owner shall be deemed to have constructive knowledge of an infestation of bed bugs in the
55 event the owner is aware of an infestation of bed bugs in any surrounding unit.

56 SECTION 4. Notwithstanding any general or special law to the contrary, within 10
57 business days of actual or constructive knowledge of an infestation of bed bugs, the owner shall
58 retain the services of a certified applicator to inspect the dwelling unit to confirm the presence of
59 an infestation of bed bugs. In the event the certified applicator fails to observe an infestation of
60 bed bugs, the owner shall have no further obligation to perform further inspections for bed bugs
61 in the dwelling unit unless the tenant provides the owner with a written report from a certified
62 applicator identifying the existing of an infestation of bed bugs in the dwelling unit.

63 In the event a certified applicator identifies an infestation of bed bugs in a dwelling unit,
64 the owner shall perform such treatments and extermination services as may be required by the
65 certified applicator. The owner shall then perform such further treatments and exterminator
66 services as may be required by the certified applicator until such time as the control of the bed
67 bugs shall be deemed to be completed.

68 The owner shall perform a visual inspection for an infestation of bed bugs no later than
69 30 days after the certified applicator indicates that the control of the bed bugs has been
70 completed. In the event that the owner fails to observe the presence of bed bugs at such
71 inspection, the extermination of bed bugs shall be complete.

72 SECTION 5. Notwithstanding any general or special law to the contrary, prior to
73 entering into a lease agreement with a tenant for an unoccupied unit, an owner shall perform a
74 visual inspection of the dwelling unit that is subject to said lease and verify in writing to the
75 tenant that the dwelling unit is free of an infestation of bed bugs.

76 In the event the owner observes the presence of any bed bugs or other evidence of the
77 existence of bed bugs in the dwelling unit upon visual inspection, the owner shall commence the
78 extermination protocol set forth in sections 2 and 3 of this act before the lease agreement is
79 signed.

80 In the event a lease agreement is entered into by an owner and tenant and the owner fails
81 to provide written verification that the dwelling unit is free of an infestation of bed bugs at time
82 of signing, the tenant shall not be held liable for any actual or consequential damages caused by
83 an infestation of bed bugs if said infestation is confirmed within 30 days of signing.

84 SECTION 6. Notwithstanding any general or special law to the contrary, no owner shall
85 be liable for any actual or consequential damages caused by an infestation of bed bugs unless the
86 owner fails to comply with the requirements of this act.

87 Nothing herein shall prevent the owner and tenant from entering into an agreement
88 assigning other duties and obligations in relation to the costs and duties pertaining to bed bug
89 controls.

90 SECTION 7. Notwithstanding any general or special law to the contrary, the department
91 of public health shall prepare an information sheet that describes bed bugs and explains how bed
92 bug infestations spread. The information sheet may contain additional information the
93 department deems necessary and shall be updated by the department as new information
94 concerning bed bugs becomes available.

95 (a) Notwithstanding the above, the information sheet shall contain the following
96 information: (1) specific facts about bed bugs, including its appearance, breeding and feeding
97 habit; (2) tenant behaviors that are risk factors for attracting and supporting the presence of bed

98 bugs such as, but not limited to, purchasing renovated mattresses, used furniture or pre-owned
99 clothing, and travel to tropical climates without proper precautions; (3) measures that may be
100 taken to prevent and control bed bugs in a residential setting including professional pest control
101 exterminating, cleaning the dwelling space and mattresses, and laundering bedclothes and
102 clothing; (4) in conspicuous form, a statement describing the legal rights and obligations
103 imposed on tenants and owners per this act.

104 (b) The department shall make the information sheet available online to owners, tenants,
105 and members of the general public, in a form suitable for downloading and printing by owners
106 for their use in tenant bed bug education.

107 (c) The department shall make the information sheet available in both English and
108 Spanish languages.

109 (d) The information sheet shall serve as an informational document only, and nothing
110 therein shall be construed as binding on or affecting judicial determination related to this act.
111 The information sheet shall not be deemed to be medical advice.

112 (e) Any owner entering into a lease agreement with a tenant shall provide a copy of the
113 information sheet at the time of the lease signing.