

SENATE No. 893

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 access to air conditioning and relief from oppressive heat.

PETITION OF:

NAME:

Mark C. Montigny

DISTRICT/ADDRESS:

Second Bristol and Plymouth

SENATE No. 893

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 893) of Mark C. Montigny for legislation relative to access to air conditioning and relief from oppressive heat. Housing.

The Commonwealth of Massachusetts

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

An Act relative to access to air conditioning and relief from oppressive heat.

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 186 of the General Laws, as appearing in the 2022 Official Edition,
2 is hereby amended by inserting after Section 14 the following section:-

3 Section 14A. (a) For the purposes of this section, the following words shall have the
4 following meanings:

5 “Portable cooling device” includes air conditioners and evaporative coolers, including
6 devices mounted in a window or that are designed to sit on the floor but not including devices
7 whose installation or use requires alteration to the dwelling unit.

8 (b) A landlord may not prohibit or restrict a tenant from installing or using a portable
9 cooling device of the tenant’s choosing, unless:

10 (1) The installation or use of the device would:

11 (i) Violate building codes or state or federal law;

- 12 (ii) Violate the device manufacturer's written safety guidelines for the device;
- 13 (iii) Damage the premises or render the premises uninhabitable; or
- 14 (iv) Require amperage to power the device that cannot be accommodated by the power
15 service to the building, dwelling unit or circuit;

16 (2) If the device would be installed in a window and:

17 (i) The window is a necessary egress from the dwelling unit;

18 (ii) The device would interfere with the tenant's ability to lock a window that is
19 accessible from outside;

20 (3) The device requires the use of brackets or other hardware that would damage or void
21 the warranty of the window or frame, puncture the envelope of the building or otherwise cause
22 significant damages;

23 (4) The restrictions require that the device be adequately drained to prevent damage to the
24 dwelling unit or building; or

25 (5) The restrictions require that the device be installed in a manner that prevents risk of
26 falling; or

27 (6) The restrictions require that the device be:

28 (i) Installed or removed by the landlord or landlord's agent;

29 (ii) Subject to inspection or servicing by the landlord or landlord's agent; or

30 (iii) Removed from October 1 through April 30;

31 (7) The landlord provides cooling to the dwelling unit through a central air conditioning
32 system.

33 (c) A landlord may not enforce a restriction on portable cooling devices against a tenant
34 allowed under subsection (b) of this section unless the restrictions are in writing and delivered to
35 the tenant.

36 (d) A landlord is immune from liability for any claim for damages, injury or death caused
37 by a portable cooling device installed by the tenant.

38 (e) A landlord who must limit portable cooling devices for a building under subsection
39 (b)(1)(iv) of this section shall prioritize allowing the use of devices for individuals who require a
40 device to accommodate a disability. A landlord is not responsible for any interruption in
41 electrical service that is not caused by the landlord, including interruptions caused by an
42 electrical supply's inability to accommodate use of a portable cooling device.

43 SECTION 2. Chapter 184 of the General Laws, as appearing in the 2022 Official Edition,
44 is hereby amended by inserting after Section 23D the following section:-

45 Section 23E. (a) For the purposes of this section, the following words shall have the
46 following meanings:-

47 "Portable cooling device" includes air conditioners and evaporative coolers, including
48 devices mounted in a window or that are designed to sit on the floor but not including devices
49 whose installation or use requires alteration to the dwelling unit.

50 (b) A provision in a condominium's governing document that restricts or prohibits the
51 installation or use of a portable cooling device, is void and unenforceable, unless:

- 52 (1) The installation or use of the device would:
- 53 (i) Violate building codes or state or federal law;
- 54 (ii) Violate the device manufacturer's written safety guidelines for the device;
- 55 (iii) Interfere with the common elements of the condominium; or
- 56 (iv) Require amperage to power the device that cannot be accommodated by the power
- 57 service to the building, unit or circuit;
- 58 (2) The device would be installed in a window and:
- 59 (i) The window is a necessary egress from the unit;
- 60 (ii) The device would interfere with the unit owner's ability to lock a window that is
- 61 accessible from outside;
- 62 (iii) The device requires the use of brackets or other hardware that would damage or void
- 63 the warranty of the window or frame, puncture the envelope of the building or otherwise cause
- 64 significant damages;
- 65 (iv) The restrictions require that the device be adequately drained to prevent damage to
- 66 the dwelling unit or building; or
- 67 (v) The restrictions require that the device be installed in a manner that prevents risk of
- 68 falling; or
- 69 (3) The building is cooled through a central air conditioning system;
- 70 (4) The restrictions are only to require that the device be:

71 (i) Installed by building maintenance or a licensed contractor; or

72 (ii) Removed from October 1 through April 30.

73 SECTION 3. Notwithstanding any special or general law to the contrary, the department
74 of housing and community development, in collaboration with the department of public health
75 shall study whether to apply for funding to offer include cooling assistance in the application to
76 the U.S. Department of Health and Human Services for the Low Income Home Energy
77 Assistance Program. The study shall include, but not be limited to: (i) the number of households
78 that could qualify for cooling assistance; (ii) the potential health impacts of offering cooling
79 assistance including the impact on the rate of heat related illness and the effect for those
80 suffering from chronic illnesses (iii) whether offering cooling assistance would impact the ability
81 of the state to offer heating assistance (iv) the number of individuals that could qualify for
82 cooling assistance that reside in heat islands. The secretary of the department of housing and
83 community development shall report the findings of this study and any actions taken pursuant
84 this section to the house and senate committees on ways and means, the joint committee on
85 telecommunications, utilities and energy, the joint committee housing and the clerks of the house
86 of representatives and senate not later than July 1, 2024.