

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

William J. Driscoll, Jr.

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 clean heat standard.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>William J. Driscoll, Jr.</i>	<i>7th Norfolk</i>	<i>1/20/2023</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>1/27/2023</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>1/27/2023</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>1/30/2023</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>1/31/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/31/2023</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/6/2023</i>
<i>Rodney M. Elliott</i>	<i>16th Middlesex</i>	<i>2/7/2023</i>
<i>John J. Cronin</i>	<i>Worcester and Middlesex</i>	<i>2/7/2023</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/7/2023</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/7/2023</i>
<i>Margaret R. Scarsdale</i>	<i>1st Middlesex</i>	<i>2/8/2023</i>
<i>James C. Arena-DeRosa</i>	<i>8th Middlesex</i>	<i>2/8/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/8/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/9/2023</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

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

An Act relative to the clean heat standard.

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 25A of the General Laws are hereby amended by adding the
2 following new section:-

3 Section 19. Clean Heat Standard

4 (a) For the purposes of this section, as well as Sections 19A, 19B, and 19C, the following
5 words shall have the following meanings:

6 “Clean Heat Credit,” means a tradeable, non-tangible commodity that represents the
7 amount of greenhouse gas reduction caused by a clean heat measure.

8 “Clean heat measure,” means fuel and technologies delivered and installed to end-use
9 customers in Massachusetts that reduce greenhouse gas emissions. Clean heat measures shall not
10 include switching from one fossil fuel use to another fossil fuel use, or the use of Renewable
11 Natural Gas or Hydrogen. The department may adopt a list of acceptable actions that qualify as
12 clean heat measures.

13 “The department” or “department,” shall mean the Massachusetts Department of Energy
14 Resources.

15 “Default delivery agent,” shall mean the entity designated by the department to provide
16 services that generate tradeable clean heat credits.

17 “entity” shall mean any individual, trustee, agency, partnership, association, corporation,
18 company, municipality, political subdivision, or any other form of organization.

19 “Heating fuel” shall mean fossil-based heating fuel, including oil, propane, natural gas,
20 coal, and kerosene.

21 “Obligated party” shall mean (a) a natural gas utility, whether investor-owned or a
22 municipal utility, serving customers in Massachusetts; or (b) for other heating fuels, the entity
23 that makes the first sale of heating fuel into or in the state for consumption within the state.
24 Electricity suppliers shall not be obligated parties.

25 “Thermal sector” shall mean the residential, non-residential, commercial, and industrial
26 fuel use sectors.

27 “Energy Burden” shall mean the annual spending on thermal energy as a percentage of
28 household income.

29 (b) The Clean Heat Standard is hereby established. Under this program, obligated parties
30 shall reduce greenhouse gas emissions attributable to the Massachusetts thermal sector by
31 retiring required amounts of clean heat credits to meet the thermal sector portion of the
32 greenhouse Global Warming Solutions Act.

33 (c) By rule or order, the Department shall establish or adopt a system of tradeable clean
34 heat credits earned from the delivery of clean heat measures that reduce greenhouse gas
35 emissions.

36 (d) An obligated party may obtain the required amount of clean heat credits through
37 delivery of eligible clean heat measures, through contracts for delivery of eligible clean heat
38 measures, through the market purchase of clean heat credits, or through delivery of eligible clean
39 heat measures by a designated statewide default delivery agent.

40 (e) The department shall establish a system of recognition for clean heat credits pursuant
41 to this section.

42 SECTION 2. Said Chapter 25A of said General Laws is further amended by inserting the
43 following new section:

44 Section 19A. Compliance with the Clean Heat Standard

45 (a) Required Amounts:

46 (1) The department shall establish the number of clean heat credits that each obligated
47 party is required to retire each calendar year. The size of the annual requirement shall be set at a
48 pace sufficient for the thermal sector to achieve lifecycle carbon dioxide equivalent (CO₂e)
49 emission reductions consistent with the building sector sub-sector limits for 2025 and thereafter.

50 (2) Annual requirements shall be expressed as a percent of each obligated party's
51 contribution to the thermal sector's lifecycle CO₂e emissions in the previous year with the
52 annual percentages being the same for all parties. To ensure understanding among obligated

53 parties, the Department shall, in a timely manner, publicly provide a description of the annual
54 requirements in plain terms.

55 (3) The Department may adjust the annual requirements for good cause after notice and
56 opportunity for public process. Good cause may include a shortage of clean heat credits or undue
57 adverse financial impacts on particular customers or demographic segments. Any downward
58 adjustment shall be allowed for only a short, temporary period.

59 (b) Annual Registration:

60 (1) The Department may adjust the annual requirements for good cause after notice and
61 opportunity for public process. Good cause may include a shortage of clean heat credits or undue
62 adverse financial impacts on particular customers or demographic segments. Any downward
63 adjustment shall be allowed for only a short, temporary period.

64 (2) At a minimum, the Department shall require registration information to include legal
65 name, doing business as name if applicable, municipality, state, type of heating fuel sold, and the
66 volume of sales of heating fuels into or in the State for final sale or consumption in the State in
67 the calendar year immediately preceding the calendar year in which the entity is registering with
68 the Department.

69 (3) Each year, and not later than 30 days following the annual registration deadline
70 established by the Department, the Department shall share complete registration information of
71 obligated parties with the Department of Environmental Protection for purposes of conducting
72 the Massachusetts Greenhouse Gas Emissions Inventory and Forecast.

73 (4) The Department shall maintain, and update annually, a list of registered entities on its
74 website that contains the required registration information, except that the public list shall not
75 include heating fuel volumes reported.

76 (5) For any entity not registered, the first registration form shall be due 30 days after the
77 first sale of heating fuel to a location in Massachusetts.

78 (6) Clean heat requirements shall transfer to entities that acquire an obligated party.

79 (c) Equitable distribution of clean heat measures:

80 (1) The Clean Heat Standard shall be designed and implemented to enhance social equity
81 by minimizing adverse impacts to low-income and moderate-income customers and those
82 households with the highest energy burdens. The design shall ensure all customers have an
83 equitable opportunity to participate in, and benefit from, clean heat measures regardless of
84 heating fuel used, income level, geographic location, or homeownership status.

85 (2) A substantial portion of clean heat credits retired by each obligated party shall be
86 sourced from clean heat measures delivered to low-income and moderate-income customers. The
87 portion of each obligated party's required amount needed to satisfy the annual Clean Heat
88 Standard requirement shall be at least 20 percent from low-income customers and 20 percent
89 from moderate-income customers. The definitions of low-income customer and moderate-
90 income customer shall be set by the Department in consultation with the Equity Advisory Group
91 and in alignment with other existing definitions

92 (3) The Department may consider frontloading the credit requirements for low-income
93 and moderate-income customers so that the greatest proportion of clean heat measures reach
94 low-income and moderate-income customers in the earlier years.

95 (4) In order to best serve low-income and moderate-income customers, the Department
96 shall have authority to change these portions and the criteria used to define low-income and
97 moderate-income customers for good cause, after notice and opportunity for public process.

98 (5) In determining whether to exceed the minimum percentages of clean heat measures
99 that must be delivered to low-income and moderate-income customers, the Department shall take
100 into account participation in other government-sponsored low-income and moderate-income
101 weatherization programs.

102 (6) A clean heat measure delivered to a customer qualifying for a government-sponsored,
103 low-income energy subsidy shall qualify for clean heat credits required by subdivision (2) of this
104 subsection.

105 (d) The Department shall designate the default delivery agent. The default delivery agent
106 shall be a single statewide entity capable of providing a variety of clean heat measures and
107 contracted for a multiyear period through a competitive procurement process. The entity selected
108 as the default delivery agent may also be a market participant but shall not be an obligated party.

109 (1) By rule or order, the Department shall adopt annually the cost per clean heat credit to
110 be paid to the default delivery agent by an obligated party that chooses this option. In adjusting
111 the default delivery agent credit cost, the Department shall consider the default delivery agent's
112 anticipated costs to deliver clean heat measures and costs borne by customers, among other

113 factors determined by the Department. Changes to the cost of credits shall take effect not less
114 than 180 days after adopted.

115 (2) All funds received from noncompliance payments pursuant to subsection (e)(2) of this
116 section shall be used by the default delivery agent to provide clean heat measures to low-income
117 customers.

118 (e) Enforcement:

119 (1) The Department shall have the authority to enforce the requirements of this section
120 and any rules or orders adopted to implement the provisions of this section. The Department may
121 use its existing authority under this title. As part of an enforcement order, the Department may
122 order penalties and injunctive relief.

123 (2) The Department may order an obligated party that fails to retire the number of clean
124 heat credits required in a given year, including the required amounts from low-income and
125 moderate-income customers, to make a noncompliance payment to the default delivery agent.
126 The per-credit amount of the noncompliance payment shall be three times the amount established
127 by the Department under this section for timely per-credit payments to the default delivery agent.

128 (3) Any statements or other representations made by obligated parties related to
129 compliance with the Clean Heat Standard are subject to the Department's enforcement authority,
130 including the power to investigate and assess penalties, under this title.

131 (f) The Department shall establish requirements for the types of records to be submitted
132 by obligated parties, a record retention schedule for required records, and a process for
133 verification of records and data submitted in compliance with the requirements of this section.

134 (g) After the adoption of the rules implementing this section, the Department shall submit
135 a written report to the joint Committee on Telecommunications, Utilities, and Energy detailing
136 the efforts undertaken to establish the Clean Heat Standard pursuant to this section. On or before
137 August 31 of each year following the year in which the rules are first adopted under this section,
138 the Department shall submit to the standing committees a written report detailing the
139 implementation and operation of the Clean Heat Standard. This report shall include an
140 assessment on the equitable adoption of clean heat measures required by this section, along with
141 recommendations to increase participation for the households with the highest energy burdens.

142 SECTION 3. Said Chapter 25A of said General Laws is further amended by inserting the
143 following new section:

144 Section 19B. Tradeable Clean Heat Credit

145 (a) By rule or order, the Department shall establish or adopt a system of tradeable clean
146 heat credits that may be earned by reducing greenhouse gas emissions through the delivery of
147 clean heat measures. While credit denominations may be in simple terms for public
148 understanding and ease of use, the underlying value shall be based on units of carbon dioxide
149 equivalent (CO₂e). The system shall provide a process for the recognition, approval, and
150 monitoring of the clean heat credits. The Department shall perform the verification of clean heat
151 credit claims.

152 (b) Clean heat credits shall be based on the lifecycle CO₂e emission reductions that result
153 from the delivery of eligible clean heat measures to end-use customer locations into or in
154 Massachusetts. For clean heat measures that are installed, the value of the clean heat credits in

155 each year shall be the lifecycle CO₂e emissions of the heating fuel avoided by the installation of
156 the measure, minus the lifecycle CO₂e emissions of the energy that is used instead.

157 (c) To promote certainty for obligated parties and clean heat providers, the Department
158 shall, by rule or order, establish a schedule of lifecycle emission rates for heating fuels and
159 eligible clean heat measures. The schedule shall be based on transparent and accurate emissions
160 accounting adapting the Argonne National Laboratory GREET Model, Intergovernmental Panel
161 on Climate Change (IPCC) modeling, or an alternative of comparable analytical rigor to achieve
162 the thermal sector greenhouse gas emissions reductions necessary to meet the sector's share of
163 greenhouse gas reduction requirements to accurately account for emissions from biogenic and
164 geologic sources, and to deter substantial unintended harmful consequences. The schedule may
165 be amended based upon changes in technology or evidence on emissions, but clean heat credits
166 previously awarded shall not be adjusted retroactively.

167 (d) Clean heat credits shall be "time stamped" for the year in which the clean heat
168 measure is delivered as well as each subsequent year during which the measure produces
169 emission reductions. Only clean heat credits with the current year time stamp, and credits banked
170 from previous years, shall be eligible to satisfy the current year obligation.

171 (e) Clean heat credits can be earned only in proportion to the deemed or measured
172 thermal sector greenhouse gas emission reductions achieved by a clean heat measure delivered in
173 Massachusetts. Other emissions offsets, wherever located, shall not be eligible measures.

174 (f) All eligible clean heat measures that are delivered in Massachusetts shall be eligible
175 for clean heat credits and may be retired and count towards an obligated party's emission

176 reduction obligations, regardless of who creates or delivers them and regardless of whether their
177 creation or delivery was required by other State policies and programs.

178 The Department shall determine whether the total value of a clean heat credit for an
179 installed measure shall be claimed in the year it is installed or whether the annual value of that
180 credit shall be applied each year of the measure’s life. The Department shall determine whether
181 to require a certain portion of clean heat credits be acquired each year from weatherization
182 projects in order to further the State’s building efficiency goals. The Department shall
183 recommend legislative changes, if needed, to accomplish this.

184 (g) The Department shall create a registration system to lower administrative barriers to
185 individuals and businesses seeking to register qualified actions eligible to earn clean heat credits
186 and to facilitate the transfer of credits to obligated parties. The Department may hire a third-party
187 consultant to evaluate, develop, implement, maintain, and support a database or other means for
188 tracking clean heat credits and compliance with the annual requirements of obligated parties.

189 The system shall require entities to submit the following information to receive the credit:
190 the location of the clean heat measure, whether the customer or tenant has a low or moderate
191 income, the type of property where the clean heat measure was installed or sold, the type of clean
192 heat measure, and any other information as required by the Department

193 SECTION 4. Said Chapter 25A of said General Laws is further amended by inserting the
194 following new section:

195 Section 19C. Clean Heat Standard Equity Advisory

196 (a) The Department shall establish the Clean Heat Standard Equity Advisory Group to
197 assist the Department in developing and implementing the Clean Heat Standard in a manner that
198 ensures an equitable share of clean heat measures are delivered to low-income and moderate-
199 income consumers, and that low-income and moderate-income consumers who are not early
200 participants in clean heat measures are not negatively impacted in their ability to afford heating
201 fuel. Its duties shall include: providing feedback to the Department on strategies for engaging
202 low-income and moderate-income consumers in the public process around development of the
203 Clean Heat Standard, supporting the Department in assessing whether customers are equitably
204 served by clean heat measures and how to increase equity in this area, identifying actions needed
205 to provide better service to and mitigate the fuel price impacts calculated in section 8125 of this
206 title on low-income and moderate-income customers, assisting the Department in defining low-
207 income and moderate income customers, recommending any additional programs, incentives, or
208 funding needed to support low-income and moderate-income customers, and organizations that
209 provide social services to Consumers, in affording heating fuel and other heating expenses,
210 providing feedback to the Department on the impact of the Clean Heat Standard on the everyday
211 experience of low-income and moderate income Consumers, and providing information to the
212 Department on the challenges renters face in being equitably served by clean heat measures and
213 recommendations to ensure that renters have equitable access to clean heat measures.

214 (b) The Clean Heat Standard Equity Advisory Group shall consist of up to 10 members
215 appointed by the Department.

216 SECTION 5. If any provision of this section or its application are held invalid or in
217 violation of the Constitution or laws of the United States or Massachusetts, the invalidity or the

218 violation shall not affect other provisions of this section that can be given effect without the
219 invalid provision or application, and to this end, the provisions of this section are severable.

220 SECTION 6. Within 90 days following the enactment of this act, the Department shall
221 commence any necessary proceedings to implement this act.

222 SECTION 7. This act shall take effect on passage.