

HOUSE No. 00465

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Malia

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 passage of the accompanying bill:

An Act relative to EMTALA providers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Marc Lombardo</i>	<i>22nd Middlesex</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>George Ross</i>	<i>2nd Bristol</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>

HOUSE No. 00465

By Ms. Elizabeth A. Malia of Boston, petition (accompanied by bill, House, No. 00465) of David B. Sullivan and others relative to liability in tort actions against emergency medical treatment administered in compliance with the federal Emergency Medical Treatment and Active Labor Act. Joint Committee on the Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to EMTALA providers.

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. Section 12B of Chapter 112, as appearing in the 2008 Official Edition, is hereby
2 amended by adding at the end thereof the following paragraph:-
3 Any health care provider, as defined in section one of chapter one hundred and eleven, who
4 provides emergency medical services, first-aid treatment, or other emergency professional care
5 in compliance with the federal Emergency Medical Treatment and Active Labor Act or as a
6 result of a declared disaster is not liable in damages to any person in a tort action for injury,
7 death, or loss to person or property that allegedly arises from an act or omission of the health
8 care provider's provision of those services or that treatment or care if that act or omission does
9 not constitute willful or wanton misconduct or a reckless disregard for the consequences so as to
10 affect the life or health of the patient. For the purposes of this section, reckless disregard, as it
11 applies to a given health care provider, means conduct that the provider knew or should have

12 known, at the time those services were rendered, created an unreasonable risk of injury, death, or
13 loss to a person or property so as to affect the life or health of another and that risk was
14 substantially greater than that which is necessary to make the conduct negligent.