

SENATE No. 2737

The Commonwealth of Massachusetts

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

SENATE, April 22, 2024.

The committee on Senate Ways and Means to whom was referred the Senate Bill relative to the remediation of home heating oil releases (Senate, No. 648), - reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2737).

For the committee,
Michael J. Rodrigues

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**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 “Environmental Media”, sediments, subsurface strata, plant life or water, including
7 territorial, coastal and inland surface waters, groundwater, streams and water in drains, tanks or
8 sewers, sewer, septic or waste treatment or storage or disposal systems servicing real property
9 buildings or structures.

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

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

15 (b) (1) For the purposes of this section, first-party property coverage shall include
16 response action costs incurred to assess and remediate a heating oil release impacting buildings,
17 soil, indoor air or other environmental media on the insured’s residential property and the
18 reimbursement of any associated personal property damage. For the purposes of this section,
19 third-party liability coverage shall include: (i) the obligation to defend the insured at the insurer’s
20 expense against third-party claims; provided, however, that such defense obligation shall include
21 coverage for costs incurred to investigate the source and extent of the release of heating oil; and
22 (ii) response action costs incurred to address conditions on and off the insured’s residential
23 property arising from a heating oil release on the insured’s residential property that has impacted
24 or presents an imminent threat to impact groundwater or has migrated to, or presents an
25 imminent threat to migrate to, a third-party’s property.

26 (2) The joint underwriting association required under section 4 of chapter 175C and any
27 insurer licensed to write and engaged in the writing of homeowners’ insurance shall provide the
28 following coverage to owners of residential property to whom a homeowners’ insurance policy is
29 issued or renewed: (i) first-party property coverage for response action costs incurred under
30 chapter 21E or chapter 21K or any regulation promulgated pursuant to said chapter 21E or
31 chapter 21K and property damage coverage on the insured’s residential property caused by or in
32 response to a release of heating oil from a residential liquid fuel tank or any piping, fuel supply
33 lines, equipment or systems connected thereto; and (ii) third-party liability coverage for third-
34 party claims arising out of a release of heating oil into the environment.

35 (3) First-party property coverage and third-party liability coverage shall apply
36 concurrently when both coverages are applicable. Insurers may include a reasonable charge for
37 such coverage in premiums applicable to all homeowners' insurance policies; provided, however,
38 that the minimum coverage shall be \$75,000 per occurrence for first-party property coverage and
39 \$250,000 per occurrence for third-party liability coverage, subject to a reasonable deductible not
40 to exceed \$1,000 per claim.

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

50 SECTION 2. This act shall apply to policies issued or renewed on or after July 1, 2025.