

SENATE No. 398

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to Provide Public Input into changes to Public Lands and Buildings located thereon..

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. The General Laws of the Commonwealth of Massachusetts are hereby
2 amended by inserting after chapter 132B the following chapter:

3 Chapter 132C. PUBLIC NOTICE AND INPUT FOR CHANGES IN CERTAIN
4 PUBLIC LANDS AND BUILDINGS

5 Section 1. Purpose

6 The purpose of this chapter is to provide for public notice and input to plans for
7 significant physical alterations to state parks and other public natural resource lands.

8 Section 2. Definitions

9 Unless the context clearly requires otherwise, when used in this chapter, the following
10 words and phrases shall have the following meanings:—

11 "Abutter," owner of any property within one half mile from the closest boundary of an
12 affected district.

13 "Affected district," state land district in which the regulated activity is to occur.

14 "Regulated activity," any of the following, other than routine maintenance and removal
15 of dead trees or trees that pose an imminent threat to the safety of persons:

16 a. Removal of more than one half a contiguous acre of trees, brush, or any plant
17 material.

18 b. Expansion or creation of paved areas or the placement of permeable, semi-
19 permeable or non-permeable materials.

20 c. Removal of more than 10 trees each of more than 8" diameter, measured 4.5 feet
21 above the ground, within any contiguous area of five acres or less of any shape, provided that the
22 area is no less than ten feet across at its narrowest point.

23 d. Removal of more than 50 trees each of more than 8" diameter, measured 4.5 feet
24 above the ground, in any state land district.

25 e. Construction or expansion of any structure, including, but not limited to, any
26 building, storage facility, tower, or shelter, covering an area in excess of 24 square feet on,
27 above, or below any land or water.

28 f. Clearing, grading, or construction for access roads or other facilities or areas in
29 connection with any of the above.

30 "State agency," commonwealth of Massachusetts or any department or agency thereof or
31 any board, authority, or public entity created thereby, not including municipalities and towns.

32 "State land district" any land area owned or under the control a state agency, including
33 but not limited to state parks, forests, reserves, recreation areas, parkways, watershed areas, or
34 beaches.

35 Section 3. Public hearing

36 No state agency may perform, authorize, grant a permit for, or otherwise enable any
37 regulated activity on a state land district unless said agency has held, no less than 30 days prior
38 to commencement of any part of the regulated activity, one or more public hearings on the
39 proposed regulated activity at a time or times and location or locations convenient to the abutters
40 of the affected district. Where more than one state agency is involved the agencies may hold a
41 joint hearing or hearings. The Executive Office of Environmental Affairs shall promulgate rules
42 and regulations for said public hearings.

43 Section 4. Public notice

44 The Executive Office of Environmental Affairs shall promulgate rules and regulations as
45 necessary to effect the requirements set forth herein.

46 No public hearing under section 3 may be held nor shall be valid unless preceded by the
47 public notices described in this section and listed below. Each notice shall state the purpose,
48 general description, affected district, timing, and likely duration of the proposed regulated
49 activity; the location (including a map or sketch of the general area showing location of the
50 proposed regulated activity) in sufficient detail and clarity that public citizens can find the site of
51 the proposed regulated activity; the date, time, and place of the public hearing; the subject matter
52 of the hearing; the nature of the action or relief requested, if any; the place where the full plan of
53 the proposed regulated activity and any application may be inspected; the case or other

54 identification number, if any, of the application or proposed regulated activity; the place where
55 written comments may be directed; the phone number or numbers of the state agency or agencies
56 contact person or persons where further information may be obtained. Where the regulated
57 activity involves cutting or removal of any tree more than 8” diameter, measured 4.5 feet above
58 the ground, the public notice shall indicate the type and size of tree, the notice shall be made
59 during the months of June, July, or August, and the notice shall be posted upon the tree as well as
60 at the locations listed below. The state agency or agencies holding the hearing shall put in place
61 all postings and public notification panels no less than 30 days prior to the hearing and shall
62 maintain said postings and panels continuously in legible and readable form, including
63 replacement thereof as necessary, until the time of the hearing.

64 Posting in two or more public places in each town or municipality within which any or
65 all of the affected district is located, regardless of whether the physical site of the regulated
66 activity is within the town or municipality.

67 Publication in a newspaper of general circulation in each town or municipality covered
68 by section 4, paragraph a, once in each of two successive weeks, the first publication to be not
69 less than seven days before the day of the hearing.

70 Posting of the proposed regulated activity on the website of the Executive Office of
71 Environmental Affairs.

72 Posting in a prominent place at the building or facility in the affected district most
73 frequented by the public, or, if there is no such appropriate building or facility, at the nearest
74 state or public building or facility to the location where the proposed regulated activity is to
75 occur.

76 In the case of state parks, forests, and recreation areas, and other state land districts
77 frequented by the public, posting on appropriate public notification boards maintained on the
78 premises.

79 Installation of public notification panel or panels at all public entrances, including roads,
80 sidewalks, pathways, and trail heads, to the affected district, and along parkways or other roads
81 adjacent to the affected district at intervals of no less than one mile. Panels shall be securely
82 mounted, clearly visible from the relevant public way, and contain a heading legible and readable
83 from the relevant public way, proclaiming the subject matter of the notice.

84 Certified mail or hand delivery to each abutter of record on file with the assessors of the
85 relevant municipality or town.

86 Section 5. Injunctive relief

87 If a state agency commences or permits the commencement of a regulated activity
88 without having complied with sections 3 and 4 in all particulars, any citizen, corporation,
89 association, town, or municipality residing, incorporated, organized, or chartered, as the case
90 may be, in Massachusetts shall be entitled, upon presentation of evidence of the state agency's
91 failure to so comply to a court of competent jurisdiction, to injunctive relief and a cease and
92 desist order against said state agency from said court.