HOUSE DOCKET, NO. 3036 FILED ON: 1/18/2013

HOUSE . . . . . No. 658

The Commonwealth of Massachusetts

PRESENTED BY:

Matthew A. Beaton

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 to include the Commonwealth in the Interstate Wildlife Violator Compact.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Matthew A. Beaton	*11th Worcester*	*1/18/2013*
Ruth B. Balser	*12th Middlesex*	*1/29/2013*
F. Jay Barrows	*1st Bristol*	*1/30/2013*
Paul Brodeur	*32nd Middlesex*	*1/31/2013*
Thomas J. Calter	*12th Plymouth*	*1/30/2013*
Christine E. Canavan	*10th Plymouth*	*1/29/2013*
Cheryl A. Coakley-Rivera	*10th Hampden*	*1/31/2013*
Thomas P. Conroy	*13th Middlesex*	*2/1/2013*
Mark J. Cusack	*5th Norfolk*	*1/31/2013*
Angelo L. D'Emilia	*8th Plymouth*	*1/31/2013*
Carolyn C. Dykema	*8th Middlesex*	*1/30/2013*
Christopher G. Fallon	*33rd Middlesex*	*1/30/2013*
Kimberly N. Ferguson	*1st Worcester*	*1/30/2013*
John V. Fernandes	*10th Worcester*	*1/30/2013*
Ann-Margaret Ferrante	*5th Essex*	*1/31/2013*
Paul K. Frost	*7th Worcester*	*2/1/2013*
Sean Garballey	*23rd Middlesex*	*1/31/2013*
Anne M. Gobi	*5th Worcester*	*1/29/2013*

Kenneth I. Gordon	*21st Middlesex*	*1/29/2013*
Danielle W. Gregoire	*4th Middlesex*	*1/31/2013*
Sheila C. Harrington	*1st Middlesex*	*2/1/2013*
Jonathan Hecht	*29th Middlesex*	*1/30/2013*
Bradley H. Jones, Jr.	*20th Middlesex*	*1/30/2013*
John D. Keenan	*7th Essex*	*1/30/2013*
Peter V. Kocot	*1st Hampshire*	*1/24/2013*
Kevin J. Kuros	*8th Worcester*	*2/1/2013*
Timothy R. Madden	*Barnstable, Dukes and Nantucket*	*1/31/2013*
Brian R. Mannal	*2nd Barnstable*	*1/29/2013*
Harold P. Naughton, Jr.	*12th Worcester*	*1/31/2013*
Alice Hanlon Peisch	*14th Norfolk*	*1/31/2013*
George N. Peterson, Jr.	*9th Worcester*	*1/30/2013*
William Smitty Pignatelli	*4th Berkshire*	*1/30/2013*
Denise Provost	*27th Middlesex*	*1/31/2013*
Angelo J. Puppolo, Jr.	*12th Hampden*	*1/24/2013*
David M. Rogers	*24th Middlesex*	*2/1/2013*
Tom Sannicandro	*7th Middlesex*	*1/25/2013*
Alan Silvia	*7th Bristol*	*1/24/2013*
Benjamin Swan	*11th Hampden*	*1/31/2013*
Bruce E. Tarr	*First Essex and Middlesex*	*2/1/2013*
Walter F. Timilty	*7th Norfolk*	*1/30/2013*
Cleon H. Turner	*1st Barnstable*	*1/24/2013*
David T. Vieira	*3rd Barnstable*	*2/1/2013*
Chris Walsh	*6th Middlesex*	*1/28/2013*
Martin J. Walsh	*13th Suffolk*	*1/29/2013*
John P. Fresolo	*16th Worcester*	*1/18/2013*
Kay Khan	*11th Middlesex*	*1/18/2013*
Paul McMurtry	*11th Norfolk*	*1/18/2013*
Thomas M. Stanley	*9th Middlesex*	*1/18/2013*
Jonathan D. Zlotnik	*2nd Worcester*	*1/19/2013*

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HOUSE . . . . . No. 658

By Mr. Beaton of Shrewsbury, a petition (accompanied by bill, House, No. 658) of Matthew A. Beaton and others for legislation to authorize the Commonwealth to enter into an interstate compact for the enforcement of certain wildlife protection laws. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to include the Commonwealth in the Interstate Wildlife Violator Compact.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 131 of the general laws is hereby amended by adding the following appendix:-

APPENDIX TO CHAPTER 131 WILDLIFE VIOLATOR COMPACT

The governor, on behalf of this commonwealth, is hereby authorized to enter into a compact, substantially in the following form, with any one or more of the states of Alabama, Alaska, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming and with such other states as may legally join therein, and the general court hereby signifies in advance its approval and ratification of such a compact so entered into, such approval and ratification to be effective upon the filing of a copy of such compact in the office of the state secretary:--

WILDLIFE VIOLATOR COMPACT

The Wildlife Violator Compact is created and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

Findings and Purpose

(1) The participating states find that:

(a) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(b) The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, laws, regulations, ordinances, and administrative rules relating to the management of such resources.

(c) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of such natural resources.

(d) Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.

(e) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

(f) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.

(g) In most instances, a person who is cited for a wildlife violation in a state other than his or her home state is:

1. Required to post collateral or a bond to secure appearance for a trial at a later date;

2. Taken into custody until the collateral or bond is posted; or

3. Taken directly to court for an immediate appearance.

(h) The purpose of the enforcement practices set forth in paragraph (g) is to ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to continue on his or her way after receiving the citation, could return to his or her home state and disregard his or her duty under the terms of the citation.

(i) In most instances, a person receiving a wildlife citation in his or her home state is permitted to accept the citation from the officer at the scene of the violation and immediately continue on his or her wFaay after agreeing or being instructed to comply with the terms of the citation.

(j) The practices described in paragraph (g) cause unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay a fine, and thus is compelled to remain in custody until some alternative arrangement is made.

(k) The enforcement practices described in paragraph (g) consume an undue amount of time of law enforcement agencies.

(2) It is the policy of the participating states to:

(a) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to the management of wildlife resources in their respective states.

(b) Recognize a suspension of the wildlife license privileges of any person whose license privileges have been suspended by a participating state and treat such suspension as if it had occurred in each respective state.

(c) Allow a violator, except as provided in subsection (2) of Article III, to accept a wildlife citation and, without delay, proceed on his or her way, whether or not the violator is a resident of the state in which the citation was issued, if the violator's home state is party to this compact.

(d) Report to the appropriate participating state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.

(e) Allow the home state to recognize and treat convictions recorded against its residents, which convictions occurred in a participating state, as though they had occurred in the home state.

(f) Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one participating state to a resident of another participating state.

(g) Maximize the effective use of law enforcement personnel and information.

(h) Assist court systems in the efficient disposition of wildlife violations.

(3) The purpose of this compact is to:

(a) Provide a means through which participating states may join in a reciprocal program to effectuate the policies enumerated in subsection (2) in a uniform and orderly manner.

(b) Provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of the violator's right to due process and the sovereign status of a participating state.

ARTICLE II

Definitions

As used in this compact, the term:

(1) "Citation" means any summons, complaint, summons and complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other peace officer for a wildlife violation which contains an order requiring the person to respond.

(2) "Collateral" means any cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

(3) "Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, costs, and surcharges, if any.

(4) "Conviction" means a conviction that results in suspension or revocation of a license, including any court conviction, for any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance, or administrative rule. The term also includes the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, the payment of a penalty assessment, a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.

(5) "Court" means a court of law, including magistrate's court and the justice of the peace court.

(6) "Home state" means the state of primary residence of a person.

(7) "Issuing state" means the participating state that issues a wildlife citation to the violator.

(8) "License" means any license, permit, or other public document that conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state; any privilege to obtain such license, permit, or other public document; or any statutory exemption from the requirement to obtain such license, permit, or other public document.

(9) "Licensing authority" means the department or division within each participating state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(10) "Participating state" means any state that enacts legislation to become a member of this wildlife compact.

(11) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that such person will comply with the terms of the citation.

(12) "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada, and other countries.

(13) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.

(14) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(15) "Wildlife" means all species of animals, including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a participating state. Species included in the definition of "wildlife" vary from state to state and the determination of whether a species is "wildlife" for the purposes of this compact shall be based on local law.

(16) "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

(17) "Wildlife officer" means any individual authorized by a participating state to issue a citation for a wildlife violation.

(18) "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

ARTICLE III

Procedures for Issuing State

(1) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state and shall not require such person to post collateral

to secure appearance, subject to the exceptions noted in subsection (2), if the officer receives the recognizance of such person that he will comply with the terms of the citation.

(2) Personal recognizance is acceptable if not prohibited by local law; by policy, procedure, or regulation of the issuing agency; or by the compact manual and if the violator provides adequate proof of identification to the wildlife officer.

(3) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state and must contain information as specified in the compact manual as minimum requirements for effective processing by the home state.

(4) Upon receipt of the report of conviction or noncompliance pursuant to subsection (3), the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in the form and content prescribed in the compact manual.

ARTICLE IV

Procedure for Home State

(1) Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall notify the violator and shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due-process safeguards shall be accorded.

(2) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as though it occurred in the home state for purposes of the suspension of license privileges.

(3) The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

ARTICLE V

Reciprocal Recognition of Suspension

(1) Each participating state may recognize the suspension of license privileges of any person by any other participating state as though the violation resulting in the suspension had

occurred in that state and would have been the basis for suspension of license privileges in that state.

(2) Each participating state shall communicate suspension information to other participating states in the form and content contained in the compact manual.

ARTICLE VI

Applicability of Other Laws

Except as expressly required by provisions of this compact, this compact does not affect the right of any participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning the enforcement of wildlife laws.

ARTICLE VII

Compact Administrator Procedures

(1) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each of the participating states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each participating state and shall serve and be subject to removal in accordance with the laws of the state he or she represents. A compact administrator may provide for the discharge of his or her duties and the performance of his or her functions as a board member by an alternate. An alternate is not entitled to serve unless written notification of his or her identity has been given to the board.

(2) Each member of the board of compact administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of the board's votes are cast in favor thereof. Action by the board shall be only at a meeting at which a majority of the participating states are represented.

(3) The board shall elect annually from its membership a chairman and vice chairman.

(4) The board shall adopt bylaws not inconsistent with the provisions of this compact or the laws of a participating state for the conduct of its business and shall have the power to amend and rescind its bylaws.

(5) The board may accept for any of its purposes and functions under this compact any and all donations and grants of moneys, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, use, and dispose of the same.

(6) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, corporation, or private nonprofit organization or institution.

(7) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in a compact manual.

ARTICLE VIII

Entry into Compact and Withdrawal

(1) This compact shall become effective at such time as it is adopted in substantially similar form by two or more states.

(2)

(a) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chairman of the board.

(b) The resolution shall substantially be in the form and content as provided in the compact manual and must include the following:

1. A citation of the authority from which the state is empowered to become a party to this compact;

2. An agreement of compliance with the terms and provisions of this compact; and

3. An agreement that compact entry is with all states participating in the compact and with all additional states legally becoming a party to the compact.

(c) The effective date of entry shall be specified by the applying state, but may not be less than 60 days after notice has been given by the chairman of the board of the compact administrators or by the secretariat of the board to each participating state that the resolution from the applying state has been received.

(3) A participating state may withdraw from participation in this compact by official written notice to each participating state, but withdrawal shall not become effective until 90 days after the notice of withdrawal is given. The notice must be directed to the compact administrator of each member state. The withdrawal of any state does not affect the validity of this compact as to the remaining participating states.

ARTICLE IX

Amendments to the Compact

(1) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the board of compact administrators and shall be initiated by one or more participating states.

(2) Adoption of an amendment shall require endorsement by all participating states and shall become effective 30 days after the date of the last endorsement.

ARTICLE X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States, or if the applicability thereof to any government, agency, individual, or circumstance is held invalid, the validity of the remainder of this compact shall not be affected thereby. If this compact is held contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the participating state affected as to all severable matters.