

# HOUSE . . . . . No. 3141

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## The Commonwealth of Massachusetts

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PRESENTED BY:

*Kate Hogan*

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*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 leaves of absence for civil air patrol members.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>1/13/2015</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>12/19/2019</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>12/19/2019</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>12/19/2019</i>

# HOUSE . . . . . No. 3141

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By Ms. Hogan of Stow, a petition (accompanied by bill, House, No. 3141) of Kate Hogan and others relative to leaves of absences for civil air patrol members. Veterans and Federal Affairs.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 3482 OF 2013-2014.]

## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the One Hundred and Eighty-Ninth General Court  
(2015-2016)  
\_\_\_\_\_

An Act relative to leaves of absence for civil air patrol members.

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

1           The General Laws are hereby amended by inserting after chapter 115A, the following  
2 chapter:-

3           Chapter 115B.

4           Section 1.

5           The following terms, unless clearly indicated otherwise, shall have the following  
6 meanings in this chapter:

7           (a) "Civil Air Patrol leave" means leave requested by an employee who is a volunteer  
8 member of the Massachusetts Wing of the civilian auxiliary of the United States Air Force  
9 commonly known as the Civil Air Patrol and who has been duly directed and authorized by the

United States Air Force, the Massachusetts Emergency Management Agency, or other political subdivision of the commonwealth that has the authority to authorize an emergency operational mission of the Massachusetts Wing of the Civil Air Patrol, to respond to an emergency operational mission, within or outside of the state, of the Massachusetts Wing of the Civil Air Patrol.

(b) "Employee" means a person who may be permitted, required, or directed by an employer for wages or pay to engage in any employment and who has been employed by that employer for at least a 90-day period immediately preceding the commencement of leave, if otherwise eligible for leave.

(c) "Employee benefits" means all benefits, other than salary and wages, provided or made available to an employee by an employer and includes group life insurance, health insurance, disability insurance, and pensions, regardless of whether benefits are provided by a policy or practice of an employer.

(d) "Employer" means any person, partnership, corporation, association, or other business entity; or the commonwealth, a municipality, or other unit of local government; that employs more than 15 employees.

31           Section 2. An employer shall not discriminate against or discharge from employment a  
32 member of the Civil Air Patrol because of such membership and shall not hinder or prevent a  
33 member from performing service as part of the Massachusetts Wing of the Civil Air Patrol  
34 during an emergency operational mission of the Massachusetts Wing of the Civil Air Patrol for  
35 which a member is entitled to leave under this part.

36           Section 3. (a) An employer shall provide not less than 10 days per calendar year of  
37 unpaid Civil Air Patrol leave to an employee responding to an emergency operational mission of  
38 the Massachusetts Wing of the Civil Air Patrol. Civil Air Patrol leave for a single emergency  
39 operational mission shall not exceed three days, unless an extension of time is granted by the  
40 governmental entity that authorized the emergency operational mission, and the extension of the  
41 leave is approved by the employer.

42           (b) Notwithstanding paragraph (a), an employer is not required to grant Civil Air Patrol  
43 leave to an employee who is required to respond to either the same or other simultaneous  
44 emergency operational mission as a first responder or disaster service worker for a local, state, or  
45 federal agency.

46           Section 4. (a) An employee shall give the employer as much notice as possible of the  
47 intended dates upon which the Civil Air Patrol leave will begin and end.

48           (b) An employer may require certification from the proper Civil Air Patrol authority to  
49 verify the eligibility of the employee for the leave requested or taken. The employer may deny  
50 the leave to be taken as Civil Air Patrol leave if the employee fails to provide the required  
51 certification.

Section 5. An employee taking leave under this part shall not be required to exhaust all accrued vacation leave, personal leave, compensatory leave, sick leave, disability leave, and any other leave that may be available to the employee in order to take Civil Air Patrol leave.

Section 6. Nothing in this act prevents an employer from providing paid leave for leave taken pursuant to this part.

Section 7. An employer shall, upon expiration of a leave authorized by this part, restore an employee to the position held by him or her when the leave began or to a position with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment. An employer may decline to restore an employee as required in this subdivision because of conditions unrelated to the exercise of rights under this part by the employee.

An employer and an employee may negotiate for the employer to maintain the benefits of the employee at the expense of the employer during the leave.

Section 8. (a) Taking Civil Air Patrol leave under this part shall not result in the loss of an employee benefit accrued before the date on which the leave began.

(b) This part does not affect the obligation of an employer to comply with any collective bargaining agreement or employee benefit plan that provides greater leave rights to employees than the rights provided under this part.

(c) The rights provided under this part shall not be diminished by any collective bargaining agreement or employee benefit plan entered into on or after June 1, 2015.

(d) This part does not affect or diminish the contract rights or seniority status of an employee not entitled to Civil Air Patrol leave.

Section 9. (a) An employer shall not interfere with, restrain, or deny the exercise or the attempt to exercise a right established by this part.

(b) An employer shall not discharge, fine, suspend, expel, discipline, or in any other manner discriminate against an employee who does any of the following:

(1) Exercises a right provided under this part.

(2) Opposes a practice made unlawful by this part.

Section 10. (a) An employee may bring a civil action in the superior court of the appropriate county to enforce this part.

(b) The court may enjoin any act or practice that violates this part and may order any equitable relief necessary and appropriate to redress the violation or to enforce this part.