

HOUSE No. 3426

The Commonwealth of Massachusetts

PRESENTED BY:

Kate Hogan

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 aviation vegetation management plans.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>1/20/2017</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>	

HOUSE No. 3426

By Ms. Hogan of Stow, a petition (accompanied by bill, House, No. 3426) of Kate Hogan and Keiko M. Orrall relative to aviation vegetation management plans. Transportation.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act relative to aviation vegetation management plans.

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 90 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by striking out section 35A and inserting in place thereof the following
3 section:-

4 Section 35A. (a) The safety, welfare and protection of persons and property in the air and
5 on the ground requires that the navigable air space overlying the Commonwealth in the
6 approaches to, and the air traffic pattern area of, airports approved by the division be maintained
7 in a reasonably unobstructed condition for the safe flight of aircraft, and therefore, in the exercise
8 of the police power, the location and height of structures and the use of land thereto related is
9 regulated as provided in sections 35B to 35D, inclusive of this chapter.

10 (b) Airport Vegetation Management Projects (VMP), including those relating to airports
11 owned or operated by the Massachusetts Port Authority, that are required for public safety
12 reasons to comply with Federal Aviation Administration and division regulations, orders, or

advisories to prevent vegetation from penetrating an airport approach or safety surface, shall be exempt from regulation by any local wetlands authority and from any local ordinance or by-law and from any rule, regulation, or order of any municipal conservation commission or other board or official that may in any way interfere with such activities. Removal of vegetation in wetlands associated with an airport shall be in compliance with section 40 of chapter 131 of the General Laws and with the limited project provisions provided in 310 CMR 10.00.

(c) If any tree is allowed to grow in such manner as to become an airport hazard or in violation of any regulation adopted by the division, then the division, the administrative agency of a city, city council, or selectmen, as the case may be, may request its owner to remove or trim it so that it will no longer constitute such a hazard, and, if said owner neglects or refuses to comply with such request within sixty days, then said division, administrative agency of a city, city council, or selectmen may enter upon the owner's land and remove or trim said tree. No part of the expense of such removal or trimming shall be charged to the owner of the tree.

SECTION 2. Chapter 90 of the General Laws, as so appearing, is hereby amended by striking out section 35B and inserting in place thereof the following section:-

Section 35B. No person shall construct or alter the height of a structure without a permit issued by the division, if any part of the structure is located within a protected surface associated with a runway of a public-use airport possessing a valid operating certificate issued by the division or the Federal Aviation Administration. A protected surface shall be defined in accordance with any applicable regulations, directives, orders, or advisory criteria promulgated by the Federal Aviation Administration.

SECTION 3. Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 35C and inserting in place thereof the following section:-

Section 35C. All permit applications shall be made to the division on forms developed by said division. If such application is granted, the permit shall specify the location of such structure or a defined area within which it shall be located, its maximum height, and, in conformity with federal laws and regulations in so far as applicable, the obstruction markers, marking, lighting or other visual identification characteristics to be installed thereon or in its vicinity. If not inconsistent with federal laws and regulations, the permit may require that lights flash at intervals and in a specified pattern.

If such application is denied pursuant to the division's airspace review criteria, notice thereof shall be given the applicant by certified mail at the address specified in the application. The applicant may, within twenty days thereafter, file a written request with the division for a public hearing. Such hearing shall be subject to the provisions of chapter 30A.