HOUSE DOCKET, NO. 1368 FILED ON: 1/18/2017

HOUSE . . . . . No. 442

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen Kulik

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 conserving our natural resources.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Stephen Kulik	*1st Franklin*	*1/18/2017*
Denise Provost	*27th Middlesex*	*1/18/2017*
Carlos González	*10th Hampden*	*1/18/2017*

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HOUSE . . . . . No. 442

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 442) of Stephen Kulik, Denise Provost and Carlos Gonzalez for legislation to regulate the use of trapping devices to take beaver and muskrat. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *709* OF 2015-2016.]

The Commonwealth of Massachusetts

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

An Act conserving our natural resources.

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

An Act conserving our natural resources

SECTION 1. Chapter 131 of the Massachusetts General Laws is hereby amended by striking the first and second paragraphs of Section 80A in their entirety and inserting in place thereof the following:

Section 80A. Notwithstanding any other provision of this chapter, a person shall not use, set, place or maintain any trap for the purpose of capturing furbearing mammals, except for common type mouse and rat traps, nets, and box or cage type traps, as otherwise permitted by law. A box or cage type trap is one that confines the whole animal without grasping any part of the animal, including Hancock or Bailey's type live trap for beavers. Other than nets and

common type mouse or rat traps, traps designed to capture and hold a furbearing mammal by gripping the mammal's body, or body part are prohibited, including steel jaw leghold traps, padded leghold traps, and lethal snares.

The above provision remains in effect in its entirety, with the exception for use; "Conibear®" style traps, non-lethal cable restraints, "dog proof" foot encapsulation restraints or other devices designed not to the harm the animal by state departments of health, departments of fish and game or municipal boards of health, or their agents for the purpose of protection from or alleviation of threats to human health and safety, the conduct of scientific research, the protection of state or federally listed endangered or threatened species; or, between the months of November and April inclusive, for the management of wildlife classified as furbearers by the Division of Fisheries and Wildlife, at times and according to regulations and restrictions set forth by the Division by qualified, licensed individuals. A threat to human health and safety may include, but shall not be limited to:

(a) beaver or muskrat occupancy of a public water supply;

(b) beaver or muskrat-caused flooding of drinking water wells, well fields or water pumping stations;

(c) beaver or muskrat-caused flooding of sewage beds, septic systems or sewage pumping stations;

(d) beaver or muskrat-caused flooding of a public or private way, driveway, railway or airport runway or taxi-way;

(e) beaver or muskrat-caused flooding of electrical or gas generation plants or transmission or distribution structures or facilities, telephone or other communications facilities or other public utilities;

(f) beaver or muskrat-caused flooding affecting the public use of hospitals, emergency clinics, nursing homes, homes for the elderly or fire stations;

(g) beaver or muskrat-caused flooding affecting hazardous waste sites or facilities, incineration or resource recovery plants or other structures or facilities whereby flooding may result in the release or escape of hazardous or noxious materials or substances;

(h) the gnawing, chewing, entering, or damage to electrical or gas generation, transmission or distribution equipment, cables, alarm systems or facilities by any beaver or muskrat;

(i) beaver or muskrat-caused flooding or structural instability on property owned by the applicant if such animal problem poses an imminent threat of substantial property damage or income loss, which shall be limited to: (1) flooding of residential, commercial, industrial or commercial buildings or facilities; (2) flooding of or access to commercial agricultural lands which prevents normal agricultural practices from being conducted on such lands; (3) reduction in the production of an agricultural crop caused by flooding or compromised structural stability of commercial agricultural lands; (4) flooding of residential lands in which the municipal board of health, its chair or agent or the state or federal department of health has determined a threat to human health and safety exists. The department of environmental protection shall make any determination of a threat to a public water supply.

SECTION 2. Said section 80A of said chapter 131 is hereby amended by striking the third paragraph in its entirety and inserting in place thereof the following:

An applicant or his duly authorized agent may apply to the municipal board of health for an emergency permit to immediately alleviate a threat to human health and safety, as defined in the previous paragraph. If the municipal board of health determines that such a threat exists, it shall immediately issue said emergency permit to alleviate the existing threat to human health and safety, for a period not exceeding ten days. If a denial is given to said application, it shall be remitted, in writing to the applicant within ten (10) days of the date of application. Further, said denial will accompany instructions which shall explain the applicants rights and privileges for appeal of said denial to the state Division of Fisheries and Wildlife. If the state Division of Fisheries and Wildlife or director determines that such a threat exists, it shall immediately issue said emergency permit to alleviate the existing threat to human health and safety, for a period not exceeding ten days.

SECTION 2. Section 80A of Chapter 131 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding at the end thereof, the following new paragraph: -

Any person issued a permit as provided by this section shall, within thirty days of the expiration of such permit or extension of same shall report to the director of the division of fisheries and wildlife, on a form approved by said director, the municipality of which the request was made, the name of the property owner, address of the property threatened, the name of authorized agent, method used to alleviate the problem, and the number, by species, of animals taken pursuant to the permit, and other information deemed necessary by the director.