

**SENATE . . . . . No. 409**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Julian Cyr*

*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 vegetation management.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Julian Cyr</i>	<i>Cape and Islands</i>	
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/31/2017</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/3/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/3/2017</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	<i>2/3/2017</i>

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By Mr. Cyr, a petition (accompanied by bill, Senate, No. 409) of Julian Cyr, Sarah K. Peake, Michael J. Barrett, James B. Eldridge and others for legislation relative to vegetation management. Environment, Natural Resources and Agriculture.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 478 OF 2015-2016.]

**The Commonwealth of Massachusetts**

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

An Act relative to vegetation management.

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

1           Any public utility, state agency or authority that maintains a right-of-way through a  
2   municipality or through property under the control of a water district shall offer a no- spray  
3   agreement, with reasonable provisions, for the municipality or water district to consider if it  
4   desires. Any such agreement negotiated may include but is not limited to the responsibilities of  
5   the parties, the allocation of costs and the rights and remedies of the parties in the event of  
6   default and may apply to all or any part of the right-of-way within the municipality or over  
7   which a water district has authority. Any agreement reached under this section must be  
8   negotiated in good faith, written, and signed by all parties. As part of the no-spray agreement the  
9   municipality or water district may either perform the vegetation control work to standards as  
10  provided in the agreement or contract with the public utility or others to conduct the work.

11           If the municipality or water district and the entity seeking to control the vegetation are  
12 unable to come to an agreement regarding a no-spray approach to vegetation management within  
13 60 days of beginning discussions, the disputed issues shall be decided by arbitration using an  
14 arbitrator mutually agreed to by the parties. If the parties are unable to agree to an arbitrator  
15 within 15 days, each party shall choose one arbitrator each and those selected arbitrators shall,  
16 within 15 days of being selected, agree upon a third arbitrator. The panel of three arbitrators shall  
17 then determine the disputed issues within 15 days from the date the third arbitrator agrees to  
18 participate. Nothing in this section shall prevent the parties from using an organization such as  
19 the American Arbitration Association or a similar entity.

20           If a reasonable no-spray agreement is offered to a municipality and an agreement is not  
21 reached within 90 days after the date of the offer, the public utility, at its own option may apply  
22 pesticides, approved by the Massachusetts Department of Agriculture, in its right-of-way or use  
23 other methods to control the vegetation. If the municipality or water district agrees to perform  
24 vegetation control work but does not perform it by the agreed upon date or another date  
25 reasonably negotiated as the result of weather or other unforeseen events causing delay, the  
26 public utility, after 90 days written notice to the municipality or water district, at its own option  
27 may apply approved herbicides in its right of way or use other methods to control the vegetation.

28           It is the intent of this section that an alternative right-of-way maintenance procedure  
29 without the use of pesticides is made available to municipalities and water districts. This section  
30 does not affect a municipality's right to enact by-laws or ordinances nor the public utilities to  
31 maintain its right-of-way clear of unwanted vegetation in the absence of a no-spray agreement.