

HOUSE No. 897

The Commonwealth of Massachusetts

PRESENTED BY:

Susannah M. Whipps

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 forest protection.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>1/18/2019</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>1/29/2019</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>1/29/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/30/2019</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	<i>1/28/2019</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/29/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/30/2019</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>1/31/2019</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/31/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/31/2019</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>	<i>1/31/2019</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>1/31/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/31/2019</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/1/2019</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>2/1/2019</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>2/1/2019</i>

HOUSE No. 897

By Ms. Whipps of Athol, a petition (accompanied by bill, House, No. 897) of Susannah M. Whipps and others relative to forest protection. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to forest protection.

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 21 of the General Laws is hereby by amended by replacing Section
2 2F with the following-

3 Management guidelines for public and private forest lands

4 Section 2F. The director of state parks and recreation shall work in cooperation with the
5 director of the division of fisheries and wildlife within the department of fish and game to
6 establish coordinated management guidelines for public forest lands within the departments of
7 conservation and recreation and for sustainable forestry practices on private forest lands. Said
8 guidelines for public forest lands shall include agreements on equipment, personnel transfers,
9 operational costs, and assignment of specific management responsibilities.

10 The commissioner of conservation and recreation shall submit management plans to the
11 stewardship council for the council’s adoption with respect to all lands and waters under the
12 management of the department, regardless of whether they lie within the urban parks district or

13 outside the urban parks district. Said management plans shall include guidelines for the operation
14 and land stewardship or the aforementioned reservations, parks and forests, shall provide for the
15 protection and stewardship of natural and cultural resources and shall ensure consistency
16 between recreation and resource protection. The commissioner shall seek and consider public
17 input in the development of management plans, and shall make draft plans available for a public
18 review and comment period through notice in the Environmental Monitor. Within thirty days of
19 the adoption of such management plans, as amended from time to time, the commissioner shall
20 file a copy of such plans as adopted by the council with the with the state secretary and the joint
21 committee on natural resources and agriculture of the general court. All said management plans
22 shall be subject to section 2B of Chapter 132A and section 1 of Chapter 131

23 The commissioner of conservation and recreation shall be responsible for implementing
24 said management plans, with due regard for the above requirement.

25 SECTION 2. Chapter 92 of the General Laws is hereby amended by replacing Section 33
26 with the following-

27 Section 33. The division of state parks and recreation, hereinafter referred to as the
28 division, may maintain and make available to the inhabitants of Arlington, Belmont, Boston,
29 Braintree, Brookline, Cambridge, Canton, Chelsea, Dedham, Dover, Everett, Hingham, Hull,
30 Lynn, Malden, Medford, Melrose, Milton, Nahant, Needham, Newton, Quincy, Revere, Saugus,
31 Somerville, Stoneham, Swampscott, Wakefield, Waltham, Watertown, Wellesley, Weston,
32 Westwood, Weymouth, Winchester, and Winthrop, which shall constitute the urban parks
33 district, open spaces for exercise and recreation, in this chapter designated as parks or reserves

34 subject to Chapter 132 Section 34A and, for the purposes set forth in this section, the powers of
35 the division shall extend to, and be exercised in, said district.

36 The division may preserve, beautify and care for such public parks or reserves, and also,
37 in its discretion and upon such terms as it may approve, such other open spaces within said
38 districts as may be entrusted, given or devised to the Commonwealth for the general purposes of
39 this section of for any one or more of such purposes as the donor may designate.

40 The division may, for the purpose of making the rivers and ponds within said district
41 more available as open spaces for recreation and exercise, regulate the use of certain spaces
42 along or near said rivers and ponds, and care for and maintain spaces so regulated, and plant,
43 care for, maintain or remove trees, shrubs, and growth of any kind within said regulated spaces.

44 SECTION 3. Chapter 92A1/2 of the General Laws is hereby amended by replacing
45 Section 16 with the following-

46 Section 16. The commissioner shall at least once every five years, adopt after public
47 review, hearing and comment, one or more periodic watershed management plans for the
48 watershed system, which shall have been prepared with the participation of a professionally
49 qualified ecologist, wildlife biologist, aquatic biologist, botanist, soil scientist, and climate
50 scientist, and the appropriate watershed advisory committee, and with broad public review and
51 comment. Any watershed management plan shall provide for, but need not be limited to, the
52 protection of forests, fish and wildlife, soils, and water quality, the maximization of carbon
53 storage, consideration of the impacts of climate change, water yield enhancement and
54 recreational activities. All watershed lands shall be designated as parks or reserves, and

55 management activities shall be subject to section 2B of chapter 132A and section 1 of Chapter
56 131.

57 SECTION 4. Chapter 92A1/2 of the General Laws is hereby amended by replacing
58 Section 20 with the following-

59 The division shall not contract for services exclusive of consultants performing only
60 those services for the division which regular employees of the division are unable to perform, to
61 accomplish any of its duties nor shall it enter into any interagency agreement for such purpose.
62 Only officers and employees of the division shall perform its duties. All contracts and
63 consultants shall be subject to section 2B of chapter 132A and section 1 of Chapter 131.

64 SECTION 5. Chapter 131 of the General Laws is hereby amended in Section 4 by
65 replacing subsection (16) thereof with the following-

66 (16) enter into such contracts as the director, in consultation with the commissioner,
67 deems necessary or appropriate in order to fulfill the responsibilities and mandates of the agency;
68 provided, however, that no contract shall include the sale, removal, or destruction of timber,
69 except as provided for in section 1 of Chapter 131.

70 SECTION 6. Chapter 131 of the General Laws is hereby amended in Section 6 by
71 replacing subsection (3) thereof with the following-

72 (3) for the purpose of providing public shooting grounds, acquire by gift, purchase, lease,
73 or easement, or without consideration therefor obtain by license or permit the use of lands or
74 waters within the commonwealth, of shooting rights thereon of therein, together with necessary
75 and proper rights of ingress and egress.

76 The director may, subject to the provisions of section thirty-seven of chapter thirty, make
77 rules and regulations relative to public rights, privileges and use of lands, waters and properties
78 acquired hereunder.

79 Nothing in this chapter shall be deemed to prohibit the director from disposing, through
80 sale or exchange, of mammals, birds, birds' eggs, fish, fish eggs or the vegetable products of
81 such lands in connection with propagation or management; provided, however, that this shall not
82 include the sale, removal, or destruction of timber, except as provided for in section 1 of Chapter
83 131.

84 SECTION 7. Chapter 131 of the General Laws is hereby amended in Section 59 by
85 inserting the following-

86 The lands of the commonwealth now under the care, custody and control of the
87 commissioner or hereafter acquired, shall be designated as parks or reserves and shall not be
88 leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber
89 thereon be sold, removed, or destroyed, except as provided for in section 1 of Chapter 131.

90 SECTION 8. Chapter 132 of the General Laws is hereby amended by replacing Section 2
91 with the following-

92 Bequests and gifts; Forest Trust

93 Section 2. The commissioner of environmental management, in this chapter called the
94 commissioner, with the approval of the governor and council, may accept on behalf of the
95 commonwealth bequests or gifts to be used for the purpose of advancing the interest of the
96 commonwealth in forest preservation, under the direction of the governor and council, or for the

97 laying out, construction or maintenance of state trails or paths, in such manner as to carry out the
98 terms of the bequests or gifts. Said trust properties shall be known as the forest trust and shall be
99 used and expended under the direction of the commissioner and subject to his orders. Subject to
100 the terms of such grant, gift, devise, or bequest, the commissioner may expend such funds
101 without further appropriation whether principal or income. The commissioner may, subject to the
102 approval of the deed and title by the attorney general, accept on behalf of the commonwealth
103 gifts of land to be held and managed for experiment and illustration in forest preservation,
104 subject to section 2B of Chapter 132A, and in accordance with such other rules and regulations
105 as the commissioner, with the approval of the governor and council, may prescribe. A donor of
106 such land may reserve the right to buy back the land in accordance with such terms and
107 conditions as may be agreed upon by and between such donor and the commissioner; but in the
108 absence of such reservation in his deed of gift he shall not have such right.

109 SECTION 9. Chapter 132 of the General Laws is hereby amended by replacing Section
110 34A with the following-

111 At the request of the commissioner, and after public hearing, the department of public
112 utilities if a location for electric light to serve an existing facility or for public safety or the
113 department of telecommunications and cable if a location for telephone or telegraph lines to
114 serve an existing facility or for public safety may by order alter or revoke and such location
115 whenever in its opinion the public interest or the rights of the commonwealth so require;
116 provided, that before so doing notice of said hearing shall be given to the grantee of the location
117 and all persons interested, and provided, further, that the grantee or any person interested in such
118 order may appeal therefrom to the governor and council within fourteen days after the filing of a
119 copy of such order as provided in the following paragraph.

120 The commissioner, within fourteen days after granting any such location, shall file a copy
121 of the grant of the same, together with a copy of the order of the department of public utilities or
122 the department of telecommunication and cable that the location is required by public necessity
123 or convenience, in the office of the clerk of the town where the location is granted, and the
124 department of public utilities or the department of telecommunications and cable shall file in the
125 office of said clerk any order altering or revoking such location, and the clerk of such town shall
126 receive and record the same.

127 The lands of the commonwealth now under the care, custody and control of the
128 commissioner or hereafter acquired, and outside the urban park district, shall be designated as
129 parks or reserves and shall not be leased, sold or exchanged, or be taken by any corporation,
130 public or private, nor shall the timber thereon be sold, removed or destroyed, except as provided
131 for in section 1 of Chapter 131.

132 The commissioner may not approve or provide for the installation of new commercial
133 solar arrays, wind electricity generating systems, gas pipelines, commercial communications
134 sites, commercial transmissions lines, cellular communications towers, or other such industrial
135 infrastructure; provided that new solar installations will be allowed if they have the primary
136 purpose of supplying electricity to an existing or approved public facility and the added
137 environmental impacts would not be significant, and the installation of new communication
138 hardware or replacement of existing communications hardware on existing fire towers or
139 communications sites will be allowed if they would not have significant environmental impacts.

140 SECTION 10. Chapter 132A of the General Laws is hereby amended by replacing
141 Section 1F with the following-

142 The bureau of forestry shall, under the supervision of the director, with the approval of
143 the commissioner perform such duties as respects the preservation of forest or wooded areas
144 under the control of the department; provided that such lands shall be designated as parks or
145 reserves and shall not be leased, sold, or exchanged, or be taken by any corporation, public or
146 private, nor shall the timber thereon be sold, removed, or destroyed, except as provided for in
147 section 1 of Chapter 131. It shall be responsible for such other duties as are now vested in the
148 division of forestry by the general laws or any special laws and shall be responsible for shade
149 tree management, arboricultural service, and insect suppression of public nuisances as defined in
150 section eleven of chapter one hundred and thirty two, subject to the approval of the director and,
151 notwithstanding the provisions of any general or special law to the contrary, the bureau may
152 require all tree spraying or other treatment performed by other departments, agencies, or political
153 subdivisions to be carried out under its direction; provided that the spraying of pesticides or
154 herbicides shall not be permitted unless there is a clear threat to public health and safety, as
155 determined by the Massachusetts Department of Public Health. The bureau may promulgate
156 rules and regulations to carry out its duties and powers. It shall assume the responsibilities of
157 section one A of chapter one hundred and thirty two and shall be responsible for such other
158 duties as are not otherwise vested in the division of forestry; provided, however, that all personal
159 of the forest, fire, shade tree and pest control units in their respective collective bargaining units
160 at the time of this consolidation to the bureau of forestry shall remain in their respective
161 collective bargaining units.

162 SECTION 11. Chapter 132A of the General Laws is hereby amended by replacing
163 Section 2B with the following-

164 It is hereby declared to be the policy of the commonwealth that all lands of the
165 commonwealth now under the care, custody, and control of the commissioner or hereafter
166 acquired shall in so far as practicable be preserved in their natural state and that no commercial
167 activities except those essential to the quiet enjoyment of the facilities by the people shall be
168 permitted. All such lands shall be designated as parks or reserves and shall not be leased, sold, or
169 exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be
170 sold, removed or destroyed, except as provided for in section 1 of Chapter 131.

171 SECTION 12 Chapter 132 of the General Laws is hereby amended by replacing Section
172 40 with the following-

173 Section 40. It is hereby declared that the public welfare requires the rehabilitation,
174 maintenance, and protection of forest lands for the purpose of conserving water, preventing
175 floods and soil erosion, improving the conditions for wildlife and recreation, protecting and
176 improving air and water quality, and optimizing carbon sequestration.

177 Therefore, it is hereby declared to be the policy of the commonwealth that all lands
178 devoted to forest growth shall be kept in such condition as shall not jeopardize the public
179 interests, and that the policy of the commonwealth shall further be one of cooperation with the
180 landowners and other agencies interested in forestry practices for the proper and profitable
181 management of all forest lands in the interest of the owner, the public and the users of forest
182 products, while ensuring the highest standards of sustainable forestry and native biodiversity
183 protection.

184 SECTION 13. Chapter 132 of the General Laws is hereby amended by deleting in
185 Section 51 the following-

186 (2) promoting the development and increased use and affordability of biomass and related
187 renewable energy resources demonstrating the role of biomass as a sustainable, renewable
188 energy source addressing the current concerns of air quality, greenhouse emissions, and forest
189 management practices, establishing applied research and development activities that examine
190 and promote best available control technology serving as a depository of information regarding
191 biomass and related renewable energy resources, providing consulting and technology transfer
192 assistance to the public sector in an effort to help public institutions replicate best available
193 practices in incorporating renewable energy strategies into existing and future construction and
194 providing a forum for public education and training regarding renewable energy and related
195 application; and promoting the development and increased use and affordability of biomass and
196 related renewable energy resources demonstrating the role of biomass as a sustainable,
197 renewable energy source addressing the current concerns of air quality, greenhouse emissions,
198 and forest management practices, establishing applied research and development activities that
199 examine and promote the best available control technology serving as a depository of
200 information regarding biomass and related renewable energy resources, providing consulting and
201 technology transfer assistance to the public sector in an effort to help public institutions replicate
202 best available practices in incorporating renewable energy strategies into existing and future
203 construction and providing a forum for public education and training regarding renewable energy
204 and related application.

205 SECTION 14. Chapter 131 of the General Laws is hereby amended in Section 1 by
206 inserting the following-

207 “Park”, an area designated by the department of conservation and recreation or division
208 of fisheries and wildlife that conserves unique natural and cultural resources while focusing on

209 the provision of recreation. Parks range from areas where natural processes dominate to modified
210 environments where use is intensively managed. The timber in Parks shall not be sold, removed,
211 or destroyed. Vegetation management shall be allowed in circumstances where historical and
212 scientific data prove such action is necessary to: ensure public health and safety; support
213 recreational use; provide fire protection and prevention; remove invasive species or pests;
214 maintain or restore recreation sites; restore or protect natural vegetation communities; maintain
215 or stabilize soils, roads and trails, scenic vistas, agricultural fields, lawns, turfs, and greens; or
216 meet other regulatory requirements.

217 “Reserve”, an area designated by the department of conservation and recreation or
218 division of fisheries and wildlife that conserves intact ecosystems that are influenced primarily
219 by natural processes. Management priorities will include: biodiversity maintenance, nutrient
220 cycling and soil formation, long-term carbon sequestration, protection of late-successional and
221 old growth forest habitats, and opportunities for wilderness recreation. The timber in Reserves
222 shall not be sold, removed, or destroyed. Vegetation management shall be allowed in
223 circumstances where historical and scientific data prove such action is necessary to: ensure
224 public health and safety; provide fire protection and prevention; remove invasive species or
225 pests; restore or protect habitats for rare or endangered species and exemplary or rare natural
226 communities; control erosion and stabilize soils; maintain existing agricultural fields, vistas, and
227 hiking trails; or meet other regulatory requirements. Creation of new fields, vistas, and wildlife
228 openings is prohibited.