SENATE DOCKET, NO. 1206 FILED ON: 2/12/2021

SENATE . . . . . No. 557

The Commonwealth of Massachusetts

PRESENTED BY:

Adam G. Hinds

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 preserving old growth forests.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Adam G. Hinds	*Berkshire, Hampshire, Franklin and Hampden*	
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*4/15/2021*

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SENATE . . . . . No. 557

By Mr. Hinds, a petition (accompanied by bill, Senate, No. 557) of Adam G. Hinds for legislation to establish old growth forest reserves in the Commonwealth. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *485* OF 2019-2020.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act preserving old growth forests.

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

SECTION 1. Chapter 132 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after section 51 the following 3 sections:-

Section 52. For the purposes of Sections 52 to 54, inclusive, the following words shall have the following meanings:

"Buffer area", an area on state-owned land immediately adjacent to an old growth forest that is of sufficient size and configuration, as determined by the secretary, for each old growth forest to protect the old growth forest from human activity and alteration and mitigate the effects of natural disturbances including, but not limited to wind, storms, fire, insect infestation, invasive species and disease.

"Old growth forest", an area of contiguous forest on state-owned land that:

(1) shows no evidence of significant human disturbance that originated on the site;

(2) has a significant component of older trees that are greater than 50 percent of the maximum longevity for the particular species;

(3) is at least 5 acres in size; and

(4) has either: (i) the capacity for self-perpetuation; or (ii) the characteristics of a forest which are indicative of an old growth forest and which otherwise meets the criteria established by regulations of the secretary. Modification of this definition may be made by regulation to incorporate future scientific advances in the understanding of old growth forests.

"Old growth forest reserve", forest area comprised of old growth forest and buffer area.

"Recommending party", the commissioner of conservation and recreation or the commissioner of fish and game.

"Secretary", the secretary of energy and environmental affairs.

"State-owned land", forest land owned in fee by the commonwealth under the custody and control of the department of conservation and recreation or the department of fish and game.

"Existing Use", any commercial or recreational project, facility, roadway, industrial or utility corridor, or the repair or future maintenance therein within its existing parameters:

(1) existing as of the date of enactment of this act, or

(2) approved under the Massachusetts Environmental Policy Act ("MEPA") and where any required approvals and permits have been issued by state and federal agencies, as of the date of such enactment; provided such approvals or permits are valid and which if challenged in a timely judicial proceeding has been upheld by a final court order.

Section 53. (a) The secretary shall conduct an inventory of the forests on state-owned land to determine the extent and condition of old growth forest stands based on existing inventory data and assessments by the departments of conservation and recreation and the department of fish and game. The secretary shall direct such departments to conduct additional assessments and inventories as the secretary deems necessary. The preliminary identification of old growth forest stands should also include an estimate ofnecessary buffer areas, including an explanation of the rationale for the estimated size and shape of such buffer areas.

(b) The secretary may designate a reserve comprised of old growth forest, together with buffer areas, after the forest area has been presented by a recommending party to the secretary in accordance with regulations adopted by the secretary. In approving, rejecting or modifying a designation, the secretary shall consider:

(1) whether the area recommended is consistent with the definitions of old growth forest and buffer area;

(2) whether such designation is consistent with the ecological, historical, educational, cultural, economic, water supply, recreational and other public values of the area; and

(3) the role of the proposed area within a statewide old growth forest reserve system.

(c) If the recommended area appears to meet the definition of an old growth forest as set forth under this section and other criteria established by the secretary pursuant to this section, the secretary may designate it as an old-growth forest reserve after: (i) holding a public hearing within 180 days of the presentation to the secretary, to be held in the region where the the proposed old growth reserve is located; and (ii) consulting with elected officials of each town where the proposed old-growth reserve is located.

Section 54. (a) The secretary shall develop, in consultation with the recommending party and, if different, the administering agency, plans for the management and protection of old growth forest reserves. The secretary shall authorize the continuation of fishing and hunting in designated old growth forest reserves, unless prohibited by regulation. Notwithstanding the previous sentence, the administering agency, after such designation, may restrict or prohibit any activity of fishing and hunting if the agency determines the activity is not suitable for the proection and management of the old growth forest reserve. The secretary may also authorize the continuation of any existing use within the old growth forest reserve, provided such use does not significantly contribute to erosion or other harmful impacts on the forest resources. Upon a determination of the adequacy of a recommendation, the secretary shall establish a moratorium on any activity that is incompatible with the establishment of an old growth forest reserve at such location pending a final determination on designating such area an old growth forest reserve.

(b) The following uses and activities shall be prohibited within the boundaries of old growth forest reserves that have been designated by the secretary in accordance with the provsions under of section 53: (i) new commercial, industrial, roadway or utility development; (ii) new or expanded recreational facilities and uses involving physical impacts to vegetation or soils; and (iii) active timber management practices. Removal or alteration of vegetation and soils,

and collecting or harvesting of plants shall be prohibited except in connection with a scientific investigation or restoration program approved by the secretary. The prohibitions in this paragraph shall not apply to emergency personnel in the event of a medical or public safety emergency in an old growth forest reserve. The secretary may approve other exceptions to the prohibitions by issuing a written declaration of emergency in the event of a major accidental, human-induced disturbance, including without limitations in the event of the introduction of exotic invasive plants, disease or insects threatens the integrity of an old growth reserve; a public health, or public safety emergency and to protect the health and well-being of the surrounding public and private forests. The secretary shall restrict management of invasive plants, diseases or insects to activities that are essential to the maintenance of the natural characteristics of the old growth forest reserves, and shall condition such activities to minimize interference with the development and maintenance of natural old growth forest conditions without harming the health and well-being of the surrounding public and private forests.

(c) The secretary shall adopt regulations for the establishment and management of old growth forest reserves.

(d) Any person who violates this section or any regulation promulgated pursuant to this section shall be punished by a fine of not more than $5,000 or by imprisonment in a house of correction for not more than 1 year or both such fine and imprisonment. Each day such violation occurs or continues shall be considered a separate violation.

(e) The superior court shall have jurisdiction to enjoin violations of, or to grant such additional relief as it deems necessary or appropriate to secure compliance with this section upon petition of the secretary or the attorney general.

SECTION 2. The secretary of energy and environmental affairs shall establish a research and education program to monitor the status of forests within old growth forest reserves and to promote understanding of old growth forest reserves.

SECTION 3. The secretary of energy and environmental affairs shall file a report with the joint committee on environment, natural resources and agriculture within 1 year after the effective date of this act identifying the results of the inventory, the regulations developed, and the progress made in designating old growth forest reserves and the preparation of management plans for old growth forest reserves pursuant to this act.