

HOUSE No. 4150

The Commonwealth of Massachusetts

PRESENTED BY:

Carmine Lawrence Gentile

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>Carmine Lawrence Gentile</i> | <i>13th Middlesex</i> | <i>6/28/2023</i> |
| <i>Vanna Howard</i> | <i>17th Middlesex</i> | <i>6/29/2023</i> |
| <i>Dylan A. Fernandes</i> | <i>Barnstable, Dukes and Nantucket</i> | <i>6/30/2023</i> |
| <i>Brian W. Murray</i> | <i>10th Worcester</i> | <i>6/30/2023</i> |
| <i>Thomas M. Stanley</i> | <i>9th Middlesex</i> | <i>7/5/2023</i> |
| <i>Michael P. Kushmerek</i> | <i>3rd Worcester</i> | <i>7/6/2023</i> |
| <i>Tommy Vitolo</i> | <i>15th Norfolk</i> | <i>8/31/2023</i> |
| <i>Smitty Pignatelli</i> | <i>3rd Berkshire</i> | <i>9/12/2023</i> |
| <i>Samantha Montaño</i> | <i>15th Suffolk</i> | <i>9/25/2023</i> |
| <i>John Barrett, III</i> | <i>1st Berkshire</i> | <i>10/11/2023</i> |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> | <i>11/16/2023</i> |
| <i>James C. Arena-DeRosa</i> | <i>8th Middlesex</i> | <i>11/27/2023</i> |

HOUSE No. 4150

By Representative Gentile of Sudbury, a petition (subject to Joint Rule 12) of Carmine Lawrence Gentile and others for legislation to establish coordinated management guidelines for public forest lands. Environment and Natural Resources.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 912 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

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 132 of the general laws is hereby amended by inserting the
2 following-

3 Section 1B. The secretary of the Executive Office of Energy and Environmental Affairs
4 shall appoint a “Forest Reserves Scientific Advisory Council,” herein after referred to as the
5 Council, to oversee the designation and management of the Forest Reserves, and to suggest
6 additional acquisitions to enhance the ecological value of the Forest Reserve program as a whole.
7 The Council shall consist of eight members, including: the director of the Division of Fisheries
8 and Wildlife or a designee, one expert in the field of plant ecology, one expert in the field of
9 nongame wildlife and endangered species, one member from the Native Plant Trust or the Native
10 Tree Society; one member from the Woodwell Climate Research Center; one member who has

11 technical training and experience in the field of soil or watershed science; and two members of
12 the public with experience in natural area conservation.

13 The members of the council shall be reimbursed for their necessary expenses incurred in
14 the performance of their duties. Each member shall be appointed for a term of three years, except
15 that for the initial term, three members shall be appointed for one year, three members shall be
16 appointed for two years and two members shall be appointed for three years. Any person
17 appointed to fill a vacancy shall serve for the unexpired term. Any member shall be eligible for
18 reappointment.

19 The council's duties shall include advising the department on policies and rules and
20 regulations concerning Forest Reserves, consulting with the department regarding the
21 nomination of potential Forest Reserves, assisting in the preparation of a plan for each Forest
22 Reserve, and advising the department on budgetary matters related to such Forest Reserves. The
23 council shall submit a biennial report to the governor on or before May first of such year,
24 describing the condition of each Forest Reserve, outlining any actions taken by the council since
25 the last report, and making any recommendations related to the Forest Reserve program which
26 the council deems necessary.

27 The department shall hold a public hearing in accordance with the provisions of Chapter
28 30A, for any substantial Forest Reserve management decisions.

29 SECTION 2. Chapter 21 of the General Laws is hereby by amended by replacing Section
30 2F with the following-

31 Management guidelines for public and private forest lands

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

38 The commissioner of conservation and recreation shall submit management plans to the
39 stewardship council for the council's adoption with respect to all reservations, parks and forests
40 under the management of the department, regardless of whether such reservations, parks and
41 forests lie within the urban parks district or outside the urban parks district. Said management
42 plans shall include guidelines for the operation and land stewardship of the aforementioned
43 reservations, parks and forests, shall provide for the protection and stewardship of natural and
44 cultural resources and shall ensure consistency between recreation and resource protection. The
45 commissioner shall seek and consider public input in the development of management plans, and
46 shall make draft plans available for a public review and comment period through notice in the
47 Environmental Monitor. Within thirty days of the adoption of such management plans, as
48 amended from time to time, the commissioner shall file a copy of such plans as adopted by the
49 council with the with the state secretary and the joint committee on natural resources and
50 agriculture of the general court. All said management plans shall be subject to section 2B of
51 Chapter 132A and section 1 of Chapter 131.

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

54 SECTION 3. Chapter 92 of the General Laws is hereby amended by replacing Section 33
55 with the following-

56 Section 33. The division of state parks and recreation, hereinafter referred to as the
57 division, may maintain and make available to the inhabitants of Arlington, Belmont, Boston,
58 Braintree, Brookline, Cambridge, Canton, Chelsea, Dedham, Dover, Everett, Hingham, Hull,
59 Lynn, Malden, Medford, Melrose, Milton, Nahant, Needham, Newton, Quincy, Revere, Saugus,
60 Somerville, Stoneham, Swampscott, Wakefield, Waltham, Watertown, Wellesley, Weston,
61 Westwood, Weymouth, Winchester, and Winthrop, which shall constitute the urban parks
62 district, open spaces for exercise and recreation, in this chapter designated as parks or reserves
63 subject to Chapter 132A Section 2B and, for the purposes set forth in this section, the powers of
64 the division shall extend to, and be exercised in, said district.

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

69 The division may, for the purpose of making the rivers and ponds within said district
70 more available as open spaces for recreation and exercise, regulate the use of certain spaces
71 along or near said rivers and ponds, and care for and maintain spaces so regulated, and plant,
72 care for, maintain or remove trees, shrubs, and growth of any kind within said regulated spaces,
73 subject to section 1 of Chapter 131.

74 The commissioner of conservation and recreation, hereinafter referred to as the
75 commissioner, may enter into and issue agreements, licenses and permits for recreational and

76 other uses which he deems compatible and consistent with this section and Article XCVII of the
77 amendments to the Constitution, provided, however, that such agreements, licenses and permits
78 shall be for periods not exceeding 10 years, and shall be in writing.

79 This section shall not limit existing rights of any town in relation to water supply
80 purposes or in any way obstruct its taking advantage of such rights.

81 SECTION 4. Chapter 92A1/2 of the General Laws is hereby amended by replacing
82 Section 16 with the following-

83 Section 16. The commissioner shall at least once every five years, adopt after public
84 review, hearing and comment, one or more periodic watershed management plans for the
85 watershed system, which shall have been prepared with the participation of a professionally
86 qualified ecologist, wildlife biologist, aquatic biologist, botanist, soil scientist, and climate
87 scientist, and the appropriate watershed advisory committee, and with broad public review and
88 comment. Any watershed management plan shall provide for, but need not be limited to, the
89 protection of forests, fish and wildlife, soils, and water quality, the maximization of carbon
90 storage, consideration of the impacts of climate change, water yield enhancement and
91 recreational activities. All watershed lands shall be designated as parks or reserves, and
92 management activities shall be subject to sections 40 to 46, inclusive of Chapter 132, 2B of
93 chapter 132A and section 1 of Chapter 131.

94 SECTION 5. Chapter 92A1/2 of the General Laws is hereby amended by replacing
95 Section 20 with the following-

96 The division shall not contract for services exclusive of consultants performing only
97 those services for the division which regular employees of the division are unable to perform, to

98 accomplish any of its duties nor shall it enter into any interagency agreement for such purpose.
99 Only officers and employees of the division shall perform its duties. All contracts and
100 consultants shall be subject to section 2B of chapter 132A and section 1 of Chapter 131.

101 SECTION 6. Chapter 132 of the General Laws is hereby amended by replacing Section 2
102 with the following-

103 Bequests and gifts; Forest Trust

104 Section 2. The commissioner of environmental management, in this chapter called the
105 commissioner, with the approval of the governor and council, may accept on behalf of the
106 commonwealth bequests or gifts to be used for the purpose of advancing the interest of the
107 commonwealth in forest preservation, under the direction of the governor and council, or for the
108 laying out, construction or maintenance of state trails or paths, in such manner as to carry out the
109 terms of the bequests or gifts. Said trust properties shall be known as the Forest Trust and shall
110 be used and expended under the direction of the commissioner and subject to his orders. Subject
111 to the terms of such grant, gift, devise, or bequest, the commissioner may expend such funds
112 without further appropriation whether principal or income. The commissioner may, subject to the
113 approval of the deed and title by the attorney general, accept on behalf of the commonwealth
114 gifts of land to be held and managed for experiment and illustration in forest preservation,
115 subject to section 2B of Chapter 132A, and in accordance with such other rules and regulations
116 as the commissioner, with the approval of the governor and council, may prescribe. A donor of
117 such land may reserve the right to buy back the land in accordance with such terms and
118 conditions as may be agreed upon by and between such donor and the commissioner; but in the
119 absence of such reservation in his deed of gift he shall not have such right.

120 SECTION 7. Chapter 132 of the General Laws is hereby amended by replacing Section
121 34A with the following-

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

131 The commissioner, within fourteen days after granting any such location, shall file a copy
132 of the grant of the same, together with a copy of the order of the department of public utilities or
133 the department of telecommunication and cable that the location is required by public necessity
134 or convenience, in the office of the clerk of the town where the location is granted, and the
135 department of public utilities or the department of telecommunications and cable shall file in the
136 office of said clerk any order altering or revoking such location, and the clerk of such town shall
137 receive and record the same.

138 The lands of the commonwealth now under the care, custody and control of the
139 commissioner or hereafter acquired, and outside the urban park district, shall be designated as
140 parks or reserves and shall not be leased, sold or exchanged, or be taken by any corporation,

141 public or private, nor shall the timber thereon be sold, removed or destroyed, except as provided
142 for in section 1 of Chapter 131.

143 The commissioner may not approve or provide for the installation of new commercial
144 solar arrays, wind electricity generating systems, gas pipelines, commercial communications
145 sites, commercial transmissions lines, cellular communications towers, or other such industrial
146 infrastructure; provided that new solar installations will be allowed if they have the primary
147 purpose of supplying electricity to an existing or approved public facility and the added
148 environmental impacts would not be significant, and the installation of new communication
149 hardware or replacement of existing communications hardware on existing fire towers or
150 communications sites will be allowed if they would not have significant environmental impacts.

151 SECTION 8. Chapter 132A of the General Laws is hereby amended by replacing Section
152 1F with the following-

153 The bureau of forestry shall, under the supervision of the director, with the approval of
154 the commissioner perform such duties as respects the preservation of forest or wooded areas
155 under the control of the department; provided that such lands shall be designated as parks or
156 reserves and shall not be leased, sold, or exchanged, or be taken by any corporation, public or
157 private, nor shall the timber thereon be sold, removed, or destroyed, except as provided for in
158 section 1 of Chapter 131. It shall be responsible for such other duties as are now vested in the
159 division of forestry by the general laws or any special laws and shall be responsible for shade
160 tree management, arboricultural service, and insect suppression of public nuisances as defined in
161 section eleven of chapter one hundred and thirty two, subject to the approval of the director and,
162 notwithstanding the provisions of any general or special law to the contrary, the bureau may

163 require all tree spraying or other treatment performed by other departments, agencies, or political
164 subdivisions to be carried out under its direction; provided that the spraying of pesticides or
165 herbicides shall not be permitted unless there is a clear threat to public health and safety, as
166 determined by the Massachusetts Department of Public Health. The bureau may promulgate
167 rules and regulations to carry out its duties and powers. It shall assume the responsibilities of
168 section one A of chapter one hundred and thirty two and shall be responsible for such other
169 duties as are not otherwise vested in the division of forestry; provided, however, that all personal
170 of the forest, fire, shade tree and pest control units in their respective collective bargaining units
171 at the time of this consolidation to the bureau of forestry shall remain in their respective
172 collective bargaining units.

173 SECTION 9. Chapter 132A of the General Laws is hereby amended by replacing Section
174 2B with the following-

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

182 SECTION 10. Chapter 132 of the General Laws is hereby amended by replacing Section
183 40 with the following-

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

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

195 SECTION 11. Chapter 132 of the General Laws is hereby amended by deleting in
196 Section 51 the following-

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

206 application; SECTION 12. Chapter 131 of the General Laws is hereby amended in Section 1 by
207 inserting the following-

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

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

228 hiking trails; or meet other regulatory requirements. Creation of new fields, vistas, and wildlife
229 openings is prohibited.