

**HOUSE . . . . . No. 3599**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

***David T. Vieira, (BY REQUEST)***

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*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 certain easements.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Mark Harding</i>	<i>25 Devon Street, Mashpee</i>	<i>1/17/2025</i>

**HOUSE . . . . . No. 3599**

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By Representative Vieira of Falmouth (by request), a petition (accompanied by bill, House, No. 3599) of Mark Harding relative to certain easements at Chappaquiddick, Dudley, Gay Head, Herring Pond and Mashpee. Tourism, Arts and Cultural Development.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Fourth General Court  
(2025-2026)**  
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An Act relative to certain easements.

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

1           PREAMBLE. By Chapter 463 of the Acts of 1869, the Legislature enfranchised all  
2 Native American Indians and declared that they were citizens of the Commonwealth, entitled to  
3 all the rights, privileges and duties of other citizens. The Act also affirmed that lands previously  
4 set off to any Indian were to become the property of such person and his heirs in fee simple.  
5 Thereafter, various acts were adopted for the disposition of common lands at Chappaquiddick,  
6 Dudley, Gay Head, Herring Pond and Mashpee. The previously set off lands and the lands  
7 divided from the common lands were intended to have the full rights and benefits of property  
8 ownership, including the right to reasonable residential use and access.

9           SECTION 1. Notwithstanding any general or special law to the contrary, lots created for  
10 the Native American Indians at Chappaquiddick, Dudley, Gay Head, Herring Pond or Mashpee,  
11 and the lots created from the partition of common lands in those former Indian districts, shall be  
12 deemed to have been granted in fee simple absolute with no restraint on alienation. If express

13 easements do not exist for such lots, the superior court shall have jurisdiction to establish forty-  
14 foot wide easements to a public way over public lands, including land held by any land bank, for  
15 vehicular access and underground utilities to such lots. If public lands are not available to  
16 provide an express easement to any such lot, new forty-foot wide easements shall be created to  
17 the nearest public way by the superior court, with the court establishing all the necessary parties  
18 required for an equitable resolution. Such easements shall be considered ways that were in  
19 existence when the subdivision control law became effective in the city or town in which the  
20 land lies, providing sufficient frontage, width, suitable grades and adequate construction to  
21 support the needs of vehicular traffic in relation to the residential use of the land, for adequate  
22 public safety and for the installation of underground utilities to serve such land and the buildings  
23 erected or to be erected thereon. The frontage of the easements shall be of such distance as is  
24 required by zoning or other ordinance or by-law, to allow for residential dwellings on such lots.