

HOUSE No. 1022

The Commonwealth of Massachusetts

PRESENTED BY:

David T. Vieira

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 conserving our natural resources.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David T. Vieira</i>	<i>3rd Barnstable</i>	<i>2/19/2021</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>2/19/2021</i>
<i>Susan L. Moran</i>	<i>Plymouth and Barnstable</i>	<i>2/26/2021</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/26/2021</i>

HOUSE No. 1022

By Mr. Vieira of Falmouth, a petition (accompanied by bill, House, No. 1022) of David T. Vieira and others relative to beaver or muskrat-caused flooding mitigation. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

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

An Act conserving our natural resources.

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 131 of the Massachusetts General Laws is hereby amended by
2 striking the first and second paragraphs of Section 80A in their entirety and inserting in place
3 thereof the following:

4 Section 80A. Notwithstanding any other provision of this chapter, a person shall not use,
5 set, place or maintain any trap for the purpose of capturing furbearing mammals, except for
6 common type mouse and rat traps, nets, and box or cage type traps, as otherwise permitted by
7 law. A box or cage type trap is one that confines the whole animal without grasping any part of
8 the animal, including Hancock or Bailey’s type live trap for beavers. Other than nets and
9 common type mouse or rat traps, traps designed to capture and hold a furbearing mammal by
10 gripping the mammal’s body, or body part are prohibited, including steel jaw leghold traps,
11 padded leghold traps, and lethal snares.

12 The above provision remains in effect in its entirety, with the exception for use;
13 “Conibear®” style traps, non-lethal cable restraints, “dog proof” foot encapsulation restraints or
14 other devices designed not to the harm the animal by state departments of health, departments of
15 fish and game or municipal boards of health, or their agents for the purpose of protection from or
16 alleviation of threats to human health and safety, the conduct of scientific research, the protection
17 of state or federally listed endangered or threatened species; or, between the months of
18 November and April inclusive, for the management of wildlife classified as furbearers by the
19 Division of Fisheries and Wildlife, at times and according to regulations and restrictions set forth
20 by the Division by qualified, licensed individuals. A threat to human health and safety may
21 include, but shall not be limited to:

22 (a) beaver or muskrat occupancy of a public water supply;

23 (b) beaver or muskrat-caused flooding of drinking water wells, well fields or water
24 pumping stations;

25 (c) beaver or muskrat-caused flooding of sewage beds, septic systems or sewage pumping
26 stations;

27 (d) beaver or muskrat-caused flooding of a public or private way, driveway, railway or
28 airport runway or taxi-way;

29 (e) beaver or muskrat-caused flooding of electrical or gas generation plants or
30 transmission or distribution structures or facilities, telephone or other communications facilities
31 or other public utilities;

32 (f) beaver or muskrat-caused flooding affecting the public use of hospitals, emergency
33 clinics, nursing homes, homes for the elderly or fire stations;

34 (g) beaver or muskrat-caused flooding affecting hazardous waste sites or facilities,
35 incineration or resource recovery plants or other structures or facilities whereby flooding may
36 result in the release or escape of hazardous or noxious materials or substances;

37 (h) the gnawing, chewing, entering, or damage to electrical or gas generation,
38 transmission or distribution equipment, cables, alarm systems or facilities by any beaver or
39 muskrat;

40 (i) beaver or muskrat-caused flooding or structural instability on property owned by the
41 applicant if such animal problem poses an imminent threat of substantial property damage or
42 income loss, which shall be limited to: (1) flooding of residential, commercial, industrial or
43 commercial buildings or facilities; (2) flooding of or access to commercial agricultural lands
44 which prevents normal agricultural practices from being conducted on such lands; (3) reduction
45 in the production of an agricultural crop caused by flooding or compromised structural stability
46 of commercial agricultural lands; (4) flooding of residential lands in which the municipal board
47 of health, its chair or agent or the state or federal department of health has determined a threat to
48 human health and safety exists. The department of environmental protection shall make any
49 determination of a threat to a public water supply.

50 SECTION 2. Said section 80A of said chapter 131 is hereby amended by striking the
51 third paragraph in its entirety and inserting in place thereof the following:

52 An applicant or his duly authorized agent may apply to the municipal board of health for
53 an emergency permit to immediately alleviate a threat to human health and safety, as defined in

54 the previous paragraph. If the municipal board of health determines that such a threat exists, it
55 shall immediately issue said emergency permit to alleviate the existing threat to human health
56 and safety, for a period not exceeding ten days. If a denial is given to said application, it shall be
57 remitted, in writing to the applicant within ten (10) days of the date of application. Further, said
58 denial will accompany instructions which shall explain the applicants rights and privileges for
59 appeal of said denial to the state Division of Fisheries and Wildlife. If the state Division of
60 Fisheries and Wildlife or director determines that such a threat exists, it shall immediately issue
61 said emergency permit to alleviate the existing threat to human health and safety, for a period not
62 exceeding ten days.

63 SECTION 3. Section 80A of Chapter 131 of the General Laws, as appearing in the 2004
64 Official Edition, is hereby amended by adding at the end thereof, the following new paragraph: -

65 Any person issued a permit as provided by this section shall, within thirty days of the
66 expiration of such permit or extension of same shall report to the director of the division of
67 fisheries and wildlife, on a form approved by said director, the municipality of which the request
68 was made, the name of the property owner, address of the property threatened, the name of
69 authorized agent, method used to alleviate the problem, and the number, by species, of animals
70 taken pursuant to the permit, and other information deemed necessary by the director.