

HOUSE No. 1638

The Commonwealth of Massachusetts

PRESENTED BY:

Kate Hogan

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 protecting the employment benefits of Civil Air Patrol and Coast Guard Auxiliary members.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>
<i>Michael J. Soter</i>	<i>8th Worcester</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>Carlos Gonzalez</i>	<i>10th Hampden</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>

HOUSE No. 1638

By Ms. Hogan of Stow, a petition (accompanied by bill, House, No. 1638) of Kate Hogan and others relative to employees of the Civil Air Patrol and Coast Guard Auxiliary. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2370 OF 2017-2018.]

The Commonwealth of Massachusetts

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

An Act protecting the employment benefits of Civil Air Patrol and Coast Guard Auxiliary members.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to support and maintain the rapid emergency response capability of the Civil Air Patrol and Coast Guard Auxiliary, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

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 149 of the General Laws as appearing in the 2016 Official Edition
2 is hereby amended by adding after Section 177B the following section:-

3 Section 177C.

4 Section 1. As used in this section:

5 “Emergency operational mission” is a mission or rescue operation which has been
6 directed and authorized by the United States Air Force, the United States Coast Guard, the

7 Federal Emergency Management Agency, the Massachusetts Emergency Management Agency,
8 or another federal or state subdivision with the authority to authorize emergency operations.

9 “Employee” is defined in accordance with Section 1 of this chapter.

10 “Employer” is a private, state, municipal, or local government entity that employs more
11 than 15 employees.

12 Section 2. Employers shall allow employees who are members of the Civil Air Patrol or
13 Coast Guard Auxiliary to participate in emergency operational missions by granting no less than
14 ten days of unpaid leave per year provided:

15 (a) The Civil Air Patrol or Coast Guard Auxiliary has been authorized to conduct or
16 participate in emergency operational missions by a competent authority;

17 (b) The employee has provided the employer written documentation of membership in
18 Civil Air Patrol or Coast Guard Auxiliary prior to the commencement of an emergency
19 operational mission; and

20 (c) The employee is participating in an emergency operational mission of the Civil Air
21 Patrol or Coast Guard Auxiliary.

22 Section 3. The employer shall not require an employee to use another form of leave in
23 order to participate in emergency operational missions, nor shall the employee be discharged or a
24 receive a reduction in pay, seniority, or other benefits for participating in emergency operational
25 missions pursuant to this section.

26 Section 4. Employers may request written documentation from the employee’s
27 commander to verify that the employee’s participation is requested during the emergency

28 operational mission. Following an emergency operational mission, employers may also request
29 documentation from the commander verifying the employee's participation in the operation.
30 Employers may deny unpaid leave if the requested documentation is not produced.

31 Section 5. Employees shall be given the opportunity to use up to five consecutive days of
32 leave pursuant to this section in a ten calendar day period. After this requirement has been met,
33 employers may require the employee to return to work before granting additional leave.

34 Section 6. The right to exercise leave pursuant to this section shall not be negotiated in
35 collective bargaining agreements or individual contracts. Nothing in this section shall preclude
36 employees from exercising the ability to take paid leave at their discretion in order to participate
37 in emergency operations if they have accrued paid leave days and the employer agrees to such
38 terms. Employees shall provide reasonable notice of their intent to take leave pursuant to this
39 section.

40 Section 7. Employers who provide first responder or disaster response services are not
41 required to grant unpaid leave to employees pursuant to this section when participating in the
42 same or simultaneous emergency operations.

43 Section 8. An employee who is terminated, charged leave, or against whom disciplinary
44 action is taken in violation of the provisions of this section shall be immediately reinstated to the
45 employee's former position without reduction of pay, leave, seniority or other benefits, and shall
46 receive any lost pay, leave, or other benefits during a period for which such termination or other
47 disciplinary action was in effect. An action to enforce the provisions of this section shall be
48 commenced within one year of the date of the alleged violation, in the superior court within any
49 county wherein the action occurred or wherein the employer resides or transacts business.