

HOUSE No. 02008

The Commonwealth of Massachusetts

PRESENTED BY:

Peter V. Kocot

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 passage of the accompanying bill:

An Act to provide public input into changes to public lands and buildings located thereon.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Geraldine Creedon</i>	<i>11th Plymouth</i>
<i>Susan C. Fargo</i>	<i>Third Middlesex</i>
<i>Cleon H. Turner</i>	<i>1st Barnstable</i>

HOUSE No. 02008

By Mr. Kocot of Northampton, a petition (accompanied by bill, House, No. 2008) of Turner and others for legislation to provide public notice and input to plans for significant physical alterations to state parks and other public natural resource lands Joint Committee on Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 758 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to provide public input into changes to public lands and buildings located thereon.

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. The General Laws of the Commonwealth of Massachusetts are hereby amended by
- 2 inserting after chapter 132B the following chapter:
- 3 Chapter 132C. PUBLIC NOTICE AND INPUT FOR CHANGES IN CERTAIN PUBLIC
- 4 LANDS AND BUILDINGS
- 5 Section 1. Purpose
- 6 The purpose of this chapter is to provide for public notice and input to plans for significant
- 7 physical alterations to state parks and other public natural resource lands.

8 Section 2. Definitions

9 Unless the context clearly requires otherwise, when used in this chapter, the following words and
10 phrases shall have the following meanings:—"Abutter," owner of any property within one half
11 mile from the closest boundary of an affected district.

12 "Affected district," state land district in which the regulated activity is to occur.

13 "Regulated activity," any of the following, other than routine maintenance and removal of dead
14 trees or trees that pose an imminent threat to the safety of persons:

15 a. Removal of more than one half a contiguous acre of trees, brush, or any plant material.

16 b. Expansion or creation of paved areas or the placement of permeable, semi-permeable or
17 non-permeable materials.

18 c. Removal of more than 10 trees each of more than 8" diameter, measured 4.5 feet above
19 the ground, within any contiguous area of five acres or less of any shape, provided that the area
20 is no less than ten feet across at its narrowest point.

21 d. Removal of more than 50 trees each of more than 8" diameter, measured 4.5 feet above the
22 ground, in any state land district.

23 e. Construction or expansion of any structure, including, but not limited to, any building,
24 storage facility, tower, or shelter, covering an area in excess of 24 square feet on, above, or
25 below any land or water.

26 f. Clearing, grading, or construction for access roads or other facilities or areas in
27 connection with any of the above.

28 "State agency," commonwealth of Massachusetts or any department or agency thereof or any
29 board, authority, or public entity created thereby, not including municipalities and towns.

30 "State land district" any land area owned or under the control a state agency, including but not
31 limited to state parks, forests, reserves, recreation areas, parkways, watershed areas, or beaches.

32 Section 3. Public hearing

33 No state agency may perform, authorize, grant a permit for, or otherwise enable any regulated
34 activity on a state land district unless said agency has held, no less than 30 days prior to
35 commencement of any part of the regulated activity, one or more public hearings on the
36 proposed regulated activity at a time or times and location or locations convenient to the abutters
37 of the affected district. Where more than one state agency is involved the agencies may hold a
38 joint hearing or hearings. The Executive Office of Environmental Affairs shall promulgate rules
39 and regulations for said public hearings.

40 Section 4. Public notice

41 The Executive Office of Environmental Affairs shall promulgate rules and regulations as
42 necessary to effect the requirements set forth herein.

43 No public hearing under section 3 may be held nor shall be valid unless preceded by the public
44 notices described in this section and listed below. Each notice shall state the purpose, general
45 description, affected district, timing, and likely duration of the proposed regulated activity; the
46 location (including a map or sketch of the general area showing location of the proposed
47 regulated activity) in sufficient detail and clarity that public citizens can find the site of the
48 proposed regulated activity; the date, time, and place of the public hearing; the subject matter of

49 the hearing; the nature of the action or relief requested, if any; the place where the full plan of the
50 proposed regulated activity and any application may be inspected; the case or other identification
51 number, if any, of the application or proposed regulated activity; the place where written
52 comments may be directed; the phone number or numbers of the state agency or agencies contact
53 person or persons where further information may be obtained. Where the regulated activity
54 involves cutting or removal of any tree more than 8" diameter, measured 4.5 feet above the
55 ground, the public notice shall indicate the type and size of tree, the notice shall be made during
56 the months of June, July, or August, and the notice shall be posted upon the tree as well as at the
57 locations listed below. The state agency or agencies holding the hearing shall put in place all
58 postings and public notification panels no less than 30 days prior to the hearing and shall
59 maintain said postings and panels continuously in legible and readable form, including
60 replacement thereof as necessary, until the time of the hearing.

61 Posting in two or more public places in each town or municipality within which any or all of the
62 affected district is located, regardless of whether the physical site of the regulated activity is
63 within the town or municipality.

64 Publication in a newspaper of general circulation in each town or municipality covered by
65 section 4, paragraph a, once in each of two successive weeks, the first publication to be not less
66 than seven days before the day of the hearing.

67 Posting of the proposed regulated activity on the website of the Executive Office of
68 Environmental Affairs.

69 Posting in a prominent place at the building or facility in the affected district most frequented by
70 the public, or, if there is no such appropriate building or facility, at the nearest state or public
71 building or facility to the location where the proposed regulated activity is to occur.

72 In the case of state parks, forests, and recreation areas, and other state land districts frequented
73 by the public, posting on appropriate public notification boards maintained on the premises.

74 Installation of public notification panel or panels at all public entrances, including roads,
75 sidewalks, pathways, and trail heads, to the affected district, and along parkways or other roads
76 adjacent to the affected district at intervals of no less than one mile. Panels shall be securely
77 mounted, clearly visible from the relevant public way, and contain a heading legible and readable
78 from the relevant public way, proclaiming the subject matter of the notice.

79 Certified mail or hand delivery to each abutter of record on file with the assessors of the relevant
80 municipality or town.

81 Section 5. Injunctive relief

82 If a state agency commences or permits the commencement of a regulated activity without
83 having complied with sections 3 and 4 in all particulars, any citizen, corporation, association,
84 town, or municipality residing, incorporated, organized, or chartered, as the case may be, in
85 Massachusetts shall be entitled, upon presentation of evidence of the state agency's failure to so
86 comply to a court of competent jurisdiction, to injunctive relief and a cease and desist order
87 against said state agency from said court.