

HOUSE No. 2370

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>Steven Ultrino</i> | <i>33rd Middlesex</i> |
| <i>Chris Walsh</i> | <i>6th Middlesex</i> |
| <i>Carmine L. Gentile</i> | <i>13th Middlesex</i> |
| <i>Jennifer E. Benson</i> | <i>37th Middlesex</i> |
| <i>Kimberly N. Ferguson</i> | <i>1st Worcester</i> |
| <i>Thomas M. McGee</i> | <i>Third Essex</i> |
| <i>Kenneth I. Gordon</i> | <i>21st Middlesex</i> |
| <i>James M. Cantwell</i> | <i>4th Plymouth</i> |
| <i>Hannah Kane</i> | <i>11th Worcester</i> |
| <i>Steven S. Howitt</i> | <i>4th Bristol</i> |
| <i>Keiko M. Orrall</i> | <i>12th Bristol</i> |
| <i>Gerard Cassidy</i> | <i>9th Plymouth</i> |
| <i>David T. Vieira</i> | <i>3rd Barnstable</i> |
| <i>David M. Nangle</i> | <i>17th Middlesex</i> |
| <i>David K. Muradian, Jr.</i> | <i>9th Worcester</i> |
| <i>Jeffrey N. Roy</i> | <i>10th Norfolk</i> |

| | |
|--------------------------|-----------------------|
| <i>Carole A. Fiola</i> | <i>6th Bristol</i> |
| <i>Geoff Diehl</i> | <i>7th Plymouth</i> |
| <i>Joseph D. McKenna</i> | <i>18th Worcester</i> |
| <i>Josh S. Cutler</i> | <i>6th Plymouth</i> |
| <i>Sarah K. Peake</i> | <i>4th Barnstable</i> |

HOUSE No. 2370

By Ms. Hogan of Stow, a petition (accompanied by bill, House, No. 2370) of Kate Hogan and others relative to employees of the Civil Air Patrol and Coast Guard Auxiliary. Labor and Workforce Development.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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 convenience.

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

1 Chapter 149 of the General Laws is hereby amended by inserting after Section 177B the
2 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. Exceptions. Employers who provide first responder or disaster response
41 services are not required to grant unpaid leave to employees pursuant to this section when
42 participating in the same or simultaneous emergency operations.

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