

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

**The Commonwealth of Massachusetts**

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PRESENTED BY:

**Stephen Kulik**

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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 passage of the accompanying bill:

An Act authorizing the establishment of old growth forest reserves.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:
William N. Brownsberger	24th Middlesex
Steven J. D'Amico	4th Bristol
Paul J. Donato	35th Middlesex
Peter v. Kocot	1st Hampshire
Stephen Kulik	1st Franklin
Barbara A. L'Italien	18th Essex
Matthew C. Patrick	3rd Barnstable
Denise Provost	27th Middlesex
Frank I. Smizik	15th Norfolk
Ellen Story	3rd Hampshire
Theodore C. Speliotis	13th Essex

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 797 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine  
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### AN ACT AUTHORIZING THE ESTABLISHMENT OF OLD GROWTH FOREST RESERVES.

*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 132 of the General Laws is hereby amended by adding the following four  
2 sections:—

3 Section 52. It is hereby declared to be the policy of the Common- wealth to protect old growth  
4 forests for the purpose of protecting exemplary forest habitats, maintaining biodiversity associated with  
5 old growth forest systems and establishing ecological benchmarks for assessing the health of forests  
6 statewide. Therefore, the Commonwealth determines that a system of permanent old growth forest  
7 reserves shall be established on lands owned and administered by the Commonwealth for the department  
8 of environmental management and the division of fisheries, wildlife and environmental law enforcement.

9 Section 53. For the purposes of Sections 52 to 55, inclusive, the following words shall have the  
10 following meanings:—

11 “Buffer area”, an area immediately adjacent to an old growth forest that is of sufficient size and  
12 configuration, as determined by the secretary for each old growth forest, to protect the old growth forest  
13 from human activity and alteration and the effects of natural disturbances such as wind, storms, fire,  
14 insect infestation, invasive species and disease

15 “Future old growth forest”, a forest adjacent to an old growth forest that:—

16 (1) exhibits some old growth characteristics;

17 (2) occurs in direct association with and as an integral part of an old growth forest; and

18 (3) has the capacity to protect old growth forest areas because of its forest characteristics and

19 location.

20 “Old growth forest”, an area of contiguous forest that:—

21 (1) shows no evidence of significant human, post-European disturbance that originated on site;

22 (2) has a significant component of older trees that are greater than 50 percent of the maximum  
23 longevity for the particular species;

24 (3) is at least five acres in size; and

25 (4) has either: — (i) the capacity for self-perpetuation; or (ii) the characteristics of a forest which  
26 are indicative of an old growth forest and which otherwise meets the criteria established by regulations of  
27 the secretary. Modification of this definition may be made by regulation to incorporate future scientific  
28 advances in the under-standing of old growth forests.

29 “Old growth forest reserve”, forest area comprised of old growth forest, buffer area and future old  
30 growth forest.

31 “Recommending party”, the commissioner of conservation and recreation or the commissioner of  
32 fish and game.

33 “Secretary”, the secretary of environmental affairs.

34 “State-owned land”, forest land owned by the Commonwealth under the custody and control of the  
35 department of conservation and recreation or the department of fish and game.

36 “Existing Use”, any commercial or recreational project, facility, roadway, industrial or utility  
37 corridor, or the repair or future maintenance therein within its existing parameters: —

38 (1) existing at the time of enactment, or

39 (2) having received Massachusetts Environmental Policy Act (MEPA) approval and permits from  
40 all applicable state and federal agencies at the time of enactment, and which if challenged in a timely  
41 judicial proceeding has been upheld by a final court order.

42 Section 54. (a) The secretary shall conduct an inventory of the forests on state-owned land to  
43 determine the extent and condition of old growth forest stands in the context of the surrounding landscape  
44 in which they occur. The inventory shall identify old growth forests and buffer areas and shall include an  
45 assessment and selection of future old growth forest areas that exhibit characteristics which, if left  
46 undisturbed, would meet the definition of an old growth forest.

47 (b) The secretary may designate a reserve comprised of old growth forest or future old growth  
48 forest, together with buffer areas, after the forest area has been presented by a recommending party to the  
49 secretary in accordance with regulations set by the secretary. In approving, rejecting or modifying a  
50 designation, the secretary shall consider: —

51 (1) whether the area recommended is consistent with the definition of old growth forest, future old  
52 growth forest or buffer area;

53 (2) whether such designation is consistent with the ecological, historical, educational, cultural,  
54 water supply, recreational and other public values of the area; and

55 (3) the role of the proposed area within a statewide old growth forest reserve system. If the  
56 recommended area meets the definition set forth in Section 53 of this chapter and other criteria set by the  
57 secretary pursuant to this section, the secretary shall, after a public hearing, held within 180 days of the  
58 presentation to the secretary and conducted in the region in which the recommended area is located  
59 pursuant to regulations promulgated by the secretary, designate it as an old growth forest reserve. The  
60 reserve shall be defined by a visible boundary. Any ten citizens of the Commonwealth other than the  
61 recommending parties may present areas for designation to the secretary, subject to criteria to be  
62 established by the secretary by regulation.

63 Section 55. (a) The secretary shall develop, in consultation with the recommending party and, if  
64 different, the administering agency, plans for the management and protection of old growth forest  
65 reserves consistent with the regulations. The secretary shall authorize the continuation of fishing and  
66 hunting in designated old growth forest reserves unless prohibitions thereon had been in effect or unless  
67 fishing and hunting is thereafter determined inappropriate by the administering agency. The secretary may  
68 authorize the continuation of existing recreational uses and facilities within the old growth forest reserve  
69 if they do not significantly contribute to erosion or other harmful impacts on the forest resources. Upon a  
70 determination of the adequacy of a recommendation, the secretary shall immediately establish a  
71 moratorium on any activity incompatible with the establishment of an old growth forest reserve for the  
72 location pending outcome of a final determination by the secretary.

73 (b) The following uses and activities shall be prohibited within the boundaries of old growth forest  
74 reserves: — (i) new commercial, industrial, roadway or utility development; (ii) new or expanded  
75 recreational facilities and uses involving physical impacts to vegetation or soils; and (iii) active timber  
76 management practices. Removal or alteration of vegetation and soils or collecting or harvesting of plants  
77 shall be prohibited except as part of a scientific investigation or restoration program approved or  
78 conditioned by the secretary. The secretary shall develop regulations pursuant to Chapter 30A for the  
79 establishment and management of old growth forest reserves. The prohibitions in this paragraph shall not  
80 apply to emergency personnel in the event of a medical or public safety emergency in an old growth  
81 forest reserve. The secretary may approve other exceptions to the prohibitions by issuing a written  
82 declaration of emergency in the event of a major accidental, human-induced disturbance, such as when  
83 the introduction of exotic invasive plants, disease or insects threatens the integrity of an old growth  
84 reserve or in the event of a public health or public safety emergency. Natural forest fires and storm related  
85 damage shall not be considered emergencies except in the event of a significant threat to public health or  
86 public safety. The secretary shall restrict management of invasive plants, diseases or insects to activities  
87 that are essential to the maintenance of the natural characteristics of the old growth forest reserves and  
88 shall condition such activities to minimize interference with the development and maintenance of natural  
89 old growth forest conditions.

90 (c) Any person who violates this section or any rule or regulation promulgated pursuant to this  
91 section shall be punished by a fine of not more that \$25,000 or by imprisonment for not more than two  
92 years or both, or shall be subject to a civil penalty of not more than \$25,000 for each violation. Each day  
93 such violation occurs shall be considered a separate violation.

94 (d) The superior court shall have jurisdiction to enjoin violations of, or to grant such additional  
95 relief as it deems necessary or appropriate to secure compliance with this section upon petition of the  
96 secretary or the attorney general.

97 (e) All fines and assessments received on account of litigation or settlement thereof for a violation  
98 of this section or regulations promulgated hereunder shall be retained by the department of conservation  
99 and recreation or the department of fish and game, depending on whose land said violation occurred.

100 SECTION 2. The secretary of environmental affairs shall establish a research and education  
101 program to monitor the status of forests within old growth forest reserves and to promote understanding  
102 of old growth forest reserves.

103 SECTION 3. The secretary of environmental affairs shall report to the General Court within one  
104 year after the effective date of this act identifying the results of the inventory, the regulations developed,  
105 and the progress made in designating old growth forest reserves and the preparation of management plans  
106 for old growth forest reserves.

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