

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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:

James B. Eldridge

DISTRICT/ADDRESS:

Middlesex and Worcester

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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 inserting after
2 chapter 132B the following chapter:

3
4 Chapter 132C. PUBLIC NOTICE AND INPUT FOR CHANGES IN CERTAIN PUBLIC LANDS AND
5 BUILDINGS
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7 **Section 1. Purpose**

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9 The purpose of this chapter is to provide for public notice and input to plans for significant physical alterations to
10 state parks and other public natural resource lands.
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12 **Section 2. Definitions**

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14 Unless the context clearly requires otherwise, when used in this chapter, the following words and phrases shall have
15 the following meanings:—

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17 "Abutter," owner of any property within one half mile from the closest boundary of an affected district.
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19 "Affected district," state land district in which the regulated activity is to occur.
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21 "Regulated activity," any of the following, other than routine maintenance and removal of dead trees or trees that
22 pose an imminent threat to the safety of persons:
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- 24 a. Removal of more than one half a contiguous acre of trees, brush, or any plant material.
25 b. Expansion or creation of paved areas or the placement of permeable, semi-permeable or non-permeable
26 materials.

- 27 c. Removal of more than 10 trees each of more than 8" diameter, measured 4.5 feet above the ground, within
28 any contiguous area of five acres or less of any shape, provided that the area is no less than ten feet across
29 at its narrowest point.
- 30 d. Removal of more than 50 trees each of more than 8" diameter, measured 4.5 feet above the ground, in any
31 state land district.
- 32 e. Construction or expansion of any structure, including, but not limited to, any building, storage facility,
33 tower, or shelter, covering an area in excess of 24 square feet on, above, or below any land or water.
- 34 f. Clearing, grading, or construction for access roads or other facilities or areas in connection with any of the
35 above.
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37 "State agency," commonwealth of Massachusetts or any department or agency thereof or any board, authority, or
38 public entity created thereby, not including municipalities and towns.
39

40 "State land district" any land area owned or under the control a state agency, including but not limited to state parks,
41 forests, reserves, recreation areas, parkways, watershed areas, or beaches.
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44 **Section 3. Public hearing**

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46 No state agency may perform, authorize, grant a permit for, or otherwise enable any regulated activity on a state
47 land district unless said agency has held, no less than 30 days prior to commencement of any part of the regulated
48 activity, one or more public hearings on the proposed regulated activity at a time or times and location or locations
49 convenient to the abutters of the affected district. Where more than one state agency is involved the agencies may
50 hold a joint hearing or hearings. The Executive Office of Environmental Affairs shall promulgate rules and
51 regulations for said public hearings.
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53 **Section 4. Public notice**

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55 The Executive Office of Environmental Affairs shall promulgate rules and regulations as necessary to effect the
56 requirements set forth herein.
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58 No public hearing under section 3 may be held nor shall be valid unless preceded by the public notices described in
59 this section and listed below. Each notice shall state the purpose, general description, affected district, timing, and
60 likely duration of the proposed regulated activity; the location (including a map or sketch of the general area
61 showing location of the proposed regulated activity) in sufficient detail and clarity that public citizens can find the
62 site of the proposed regulated activity; the date, time, and place of the public hearing; the subject matter of the
63 hearing; the nature of the action or relief requested, if any; the place where the full plan of the proposed regulated
64 activity and any application may be inspected; the case or other identification number, if any, of the application or
65 proposed regulated activity; the place where written comments may be directed; the phone number or numbers of
66 the state agency or agencies contact person or persons where further information may be obtained. Where the
67 regulated activity involves cutting or removal of any tree more than 8" diameter, measured 4.5 feet above the
68 ground, the public notice shall indicate the type and size of tree, the notice shall be made during the months of June,
69 July, or August, and the notice shall be posted upon the tree as well as at the locations listed below. The state
70 agency or agencies holding the hearing shall put in place all postings and public notification panels no less than 30
71 days prior to the hearing and shall maintain said postings and panels continuously in legible and readable form,
72 including replacement thereof as necessary, until the time of the hearing.
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74 a. Posting in two or more public places in each town or municipality within which any or all of the affected
75 district is located, regardless of whether the physical site of the regulated activity is within the town or
76 municipality.

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

80 c. Posting of the proposed regulated activity on the website of the Executive Office of Environmental Affairs.

- 81 d. Posting in a prominent place at the building or facility in the affected district most frequented by the public,
82 or, if there is no such appropriate building or facility, at the nearest state or public building or facility to the
83 location where the proposed regulated activity is to occur.
- 84 e. In the case of state parks, forests, and recreation areas, and other state land districts frequented by the
85 public, posting on appropriate public notification boards maintained on the premises.
- 86 f. Installation of public notification panel or panels at all public entrances, including roads, sidewalks,
87 pathways, and trail heads, to the affected district, and along parkways or other roads adjacent to the
88 affected district at intervals of no less than one mile. Panels shall be securely mounted, clearly visible from
89 the relevant public way, and contain a heading legible and readable from the relevant public way,
90 proclaiming the subject matter of the notice.
- 91 g. Certified mail or hand delivery to each abutter of record on file with the assessors of the relevant
92 municipality or town.
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94 **Section 5. Injunctive relief**

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

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