

**HOUSE . . . . . No. 797**

By Mr. Kulik of Worthington, petition of Stephen Kulik and others for legislation to establish old growth forest reserves in the Commonwealth. Environment, Natural Resources and Agriculture.

**The Commonwealth of Massachusetts**

PETITION OF:

Stephen Kulik	James M. Murphy
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In the Year Two Thousand and Seven.

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

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

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

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

23 (1) exhibits some old growth characteristics;

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

26 (3) has the capacity to protect old growth forest areas because of  
27 its forest characteristics and location.

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

29 (1) shows no evidence of significant human, post-European dis-  
30 turbance that originated on site;

31 (2) has a significant component of older trees that are greater than  
32 50 percent of the maximum longevity for the particular species;

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

34 (4) has either: — (i) the capacity for self-perpetuation; or (ii) the  
35 characteristics of a forest which are indicative of an old growth  
36 forest and which otherwise meets the criteria established by regula-  
37 tions of the secretary. Modification of this definition may be made  
38 by regulation to incorporate future scientific advances in the under-  
39 standing of old growth forests.

40 “Old growth forest reserve”, forest area comprised of old growth  
41 forest, buffer area and future old growth forest.

42 “Recommending party”, the commissioner of conservation and  
43 recreation or the commissioner of fish and game.

44 “Secretary”, the secretary of environmental affairs.

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

48 “Existing Use”, any commercial or recreational project, facility,  
49 roadway, industrial or utility corridor, or the repair or future mainte-  
50 nance therein within its existing parameters: —

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

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

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

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

69 (1) whether the area recommended is consistent with the defini-  
70 tion of old growth forest, future old growth forest or buffer area;

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

74 (3) the role of the proposed area within a statewide old growth  
75 forest reserve system. If the recommended area meets the definition  
76 set forth in Section 53 of this chapter and other criteria set by the  
77 secretary pursuant to this section, the secretary shall, after a public  
78 hearing, held within 180 days of the presentation to the secretary and  
79 conducted in the region in which the recommended area is located  
80 pursuant to regulations promulgated by the secretary, designate it as  
81 an old growth forest reserve. The reserve shall be defined by a vis-  
82 ible boundary. Any ten citizens of the Commonwealth other than the  
83 recommending parties may present areas for designation to the sec-  
84 retary, subject to criteria to be established by the secretary by regula-  
85 tion.

86 Section 55. (a) The secretary shall develop, in consultation with  
87 the recommending party and, if different, the administering agency,  
88 plans for the management and protection of old growth forest  
89 reserves consistent with the regulations. The secretary shall autho-  
90 rize the continuation of fishing and hunting in designated old growth

91 forest reserves unless prohibitions thereon had been in effect or  
92 unless fishing and hunting is thereafter determined inappropriate by  
93 the administering agency. The secretary may authorize the continua-  
94 tion of existing recreational uses and facilities within the old growth  
95 forest reserve if they do not significantly contribute to erosion or  
96 other harmful impacts on the forest resources. Upon a determination  
97 of the adequacy of a recommendation, the secretary shall immedi-  
98 ately establish a moratorium on any activity incompatible with the  
99 establishment of an old growth forest reserve for the location  
100 pending outcome of a final determination by the secretary.

101 (b) The following uses and activities shall be prohibited within  
102 the boundaries of old growth forest reserves: — (i) new commercial,  
103 industrial, roadway or utility development; (ii) new or expanded  
104 recreational facilities and uses involving physical impacts to vegeta-  
105 tion or soils; and (iii) active timber management practices. Removal  
106 or alteration of vegetation and soils or collecting or harvesting of  
107 plants shall be prohibited except as part of a scientific investigation  
108 or restoration program approved or conditioned by the secretary. The  
109 secretary shall develop regulations pursuant to Chapter 30A for the  
110 establishment and management of old growth forest reserves. The  
111 prohibitions in this paragraph shall not apply to emergency per-  
112 sonnel in the event of a medical or public safety emergency in an old  
113 growth forest reserve. The secretary may approve other exceptions  
114 to the prohibitions by issuing a written declaration of emergency in  
115 the event of a major accidental, human-induced disturbance, such as  
116 when the introduction of exotic invasive plants, disease or insects  
117 threatens the integrity of an old growth reserve or in the event of a  
118 public health or public safety emergency. Natural forest fires and  
119 storm related damage shall not be considered emergencies except in  
120 the event of a significant threat to public health or public safety. The  
121 secretary shall restrict management of invasive plants, diseases or  
122 insects to activities that are essential to the maintenance of the nat-  
123 ural characteristics of the old growth forest reserves and shall condi-  
124 tion such activities to minimize interference with the development  
125 and maintenance of natural old growth forest conditions.

126 (c) Any person who violates this section or any rule or regulation  
127 promulgated pursuant to this section shall be punished by a fine of  
128 not more that \$25,000 or by imprisonment for not more than two  
129 years or both, or shall be subject to a civil penalty of not more than

130 \$25,000 for each violation. Each day such violation occurs shall be  
131 considered a separate violation.

132 d) The superior court shall have jurisdiction to enjoin violations  
133 of, or to grant such additional relief as it deems necessary or appro-  
134 priate to secure compliance with this section upon petition of the  
135 secretary or the attorney general.

136 (e) All fines and assessments received on account of litigation or  
137 settlement thereof for a violation of this section or regulations pro-  
138 mulgated hereunder shall be retained by the department of conserva-  
139 tion and recreation or the department of fish and game, depending on  
140 whose land said violation occurred.

1 SECTION 2. The secretary of environmental affairs shall estab-  
2 lish a research and education program to monitor the status of forests  
3 within old growth forest reserves and to promote understanding of  
4 old growth forest reserves.

1 SECTION 3. The secretary of environmental affairs shall report  
2 to the General Court within one year after the effective date of this  
3 act identifying the results of the inventory, the regulations devel-  
4 oped, and the progress made in designating old growth forest  
5 reserves and the preparation of management plans for old growth  
6 forest reserves.