

**HOUSE . . . . . No. 01839**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Jonathan Hecht*

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 update the public shade tree law.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Thomas P. Kennedy</i>	<i>Second Plymouth and Bristol</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>

# HOUSE . . . . . No. 01839

By Representative Mr. Hecht of Watertown, petition (accompanied by bill, House, No. 01839) of Provost and others for legislation to regulate the powers of tree wardens in municipalities in the Commonwealth Joint Committee on Municipalities and Regional Government.

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to update the public shade tree law.

*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. Section 2 of Chapter 87 of the General Laws is hereby amended by striking out the  
2 sentence “He shall have the care and control of all public shade trees, shrubs and growths in the  
3 town, except those within a state highway, and those in public parks or open places under the  
4 jurisdiction of the park commissioners, and shall have care and control of the latter, if so  
5 requested in writing by the park commissioners, and shall enforce all the provisions of law for  
6 the preservation of such trees, shrubs and growths” and inserting in place thereof the following  
7 sentence: “He shall have the care and control of all public shade trees, shrubs and growths in the  
8 town, except those in public parks or open places under the jurisdiction of the park  
9 commissioners, and shall have care and control of the latter, if so requested in writing by the  
10 park commissioners, and shall provide a formal, written consultation regarding actions to those  
11 trees, shrubs and growths within a state highway under state jurisdiction, and shall enforce all the  
12 provisions of law for the preservation of such trees, shrubs and growths.”

13 SECTION 2. Said Section 2 of said Chapter 87 of the General Laws is hereby further amended  
14 by striking out the sentence “He may make regulations for the care and preservation of public  
15 shade trees and establish fines and forfeitures of not more than twenty dollars in any one case for  
16 violation thereof; which, when posted in one or more public places, and, in towns, when  
17 approved by the selectmen, shall have the effect of town by-laws” and inserting in place thereof  
18 the following sentence: “He may make regulations for the care and preservation of public shade  
19 trees which, when posted in one or more public places, and, in towns, when approved by the  
20 selectmen, shall have the effect of town by-laws, and may establish fines and forfeitures for  
21 violations thereof pursuant to rules and regulations promulgated under section 15.”

22 SECTION 3. Section 5 of said Chapter 87 of the General Laws is hereby amended by striking  
23 out the section and inserting in place thereof the following section:

24 Section 5. Tree wardens and their deputies, but no other person, may, without a hearing, trim,  
25 cut down or remove trees, less than four inches in diameter one foot from the ground, and  
26 bushes, standing in public ways; and, if ordered by the mayor, selectmen, road commissioners or  
27 highway surveyor, shall trim or cut down trees and bushes that, following an inspection based on  
28 accepted industry or government arboricultural standards for the determination of hazardous or  
29 dangerous trees, are deemed to obstruct, endanger, hinder or incommode persons traveling  
30 thereon or to obstruct buildings being moved pursuant to the provisions of section eighteen of  
31 chapter eighty-five. Nothing contained in this chapter shall prevent the trimming, cutting or  
32 removal of any tree which endangers persons traveling on a highway, or the removal of any tree,  
33 if so ordered by the proper officers after securing a formal, written consultation from the tree  
34 warden for the purpose of widening the highway and nothing herein contained shall interfere

35 with the suppression of pests declared to be public nuisances by section eleven of chapter one  
36 hundred and thirty-two, including the Dutch elm disease.

37 SECTION 4. Section 6 of said Chapter 87 of the General Laws is hereby amended by striking  
38 out the section and inserting in place thereof the following section:

39 Section 6. Violations of any provision of the three preceding sections shall be punished by  
40 forfeiture of not more than the professionally assessed value of the tree or trees pursuant to rules  
41 and regulations promulgated under section 15. Such monies shall be collected to the use of the  
42 city or town.

43 SECTION 5. Section 9 of said Chapter 87 of the General Laws is hereby amended by striking  
44 out the sentence “Whoever affixes to a tree in a public way or place a notice, sign, advertisement  
45 or other thing, whether in writing or otherwise, or cuts, paints or marks such tree, except for the  
46 purpose of protecting it or the public and under a written permit from the officer having the  
47 charge of such trees in a city or from the tree warden in a town, or from the department in the  
48 case of a state highway, shall be punished by a fine of not more than fifty dollars” and inserting  
49 in place thereof the following sentence: “Whoever affixes to a tree in a public way or place a  
50 notice, sign, advertisement or other thing, whether in writing or otherwise, or cuts, paints or  
51 marks such tree, except for the purpose of protecting it or the public and under a written permit  
52 from the officer having the charge of such trees in a city or from the tree warden in a town, or  
53 from the department in the case of a state highway, shall be punished by a fine pursuant to rules  
54 and regulations promulgated under section 15.”

55 SECTION 6. Section 12 of said Chapter 87 of the General Laws is hereby amended by striking  
56 out the sentence “Whoever wantonly injures, defaces or destroys a shrub, plant or tree, or fixture

57 of ornament or utility, in a public way or place or in any public enclosure, or negligently or  
58 wilfully suffers an animal driven by or for him or belonging to him to injure, deface or destroy  
59 such shrub, plant, tree or fixture, shall be punished by a fine of not more than five hundred  
60 dollars, and shall in addition thereto be liable to the town or any person for all damages to its or  
61 his interest in said shrub, plant, tree or fixture caused by such act” and inserting in place thereof  
62 the following sentence: “Whoever wantonly injures, defaces or destroys a shrub, plant or tree, or  
63 fixture of ornament or utility, in a public way or place or in any public enclosure, or negligently  
64 or wilfully suffers an animal or vehicle driven by or for him or belonging to him to injure, deface  
65 or destroy such shrub, plant, tree or fixture, shall be punished by a fine of not more than five  
66 hundred dollars, and shall in addition thereto be liable to the town or any person for all damages  
67 to its or his interest in said shrub, plant, tree or fixture caused by such act.”

68 SECTION 7. Section 13 of said Chapter 87 of the General Laws is hereby amended by adding  
69 the following sentence: “In accordance with section 106 of chapter 41, the tree warden in any  
70 city or town which exceeds 10,000 inhabitants shall be qualified by training and experience in  
71 the field of arboriculture and licensed with the department of food and agriculture in accordance  
72 with the provisions of section 10 of chapter 132B. A qualified tree warden shall be defined as a  
73 person who has 1) completed a degree in a forestry or natural resource management field, or 2)  
74 attained ISA, MCA or other equivalent professional certification or, 3) for communities with less  
75 than 10,000 inhabitants, completed a full series of Professional Development courses offered by  
76 the Massachusetts Tree Wardens and Foresters Association or equivalent training.”

77 SECTION 8. Said Chapter 87 of the General Laws is hereby amended by adding the following  
78 section:

79 Section 15. The State Forester's Office of the Department of Conservation and Recreation shall  
80 promulgate and periodically review as necessary all rules and regulations pertaining to this  
81 chapter.