

HOUSE No. 3141

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 relative to leaves of absence for civil air patrol members.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>

HOUSE No. 3141

By Ms. Hogan of Stow, a petition (accompanied by bill, House, No. 3141) of Kate Hogan and others relative to leaves of absences for civil air patrol members. Veterans and Federal Affairs.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3482 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to leaves of absence for civil air patrol members.

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

1 The General Laws are hereby amended by inserting after chapter 115A, the following
2 chapter:-

3 Chapter 115B.

4 Section 1.

5 The following terms, unless clearly indicated otherwise, shall have the following
6 meanings in this chapter:

7 (a) "Civil Air Patrol leave" means leave requested by an employee who is a volunteer
8 member of the Massachusetts Wing of the civilian auxiliary of the United States Air Force
9 commonly known as the Civil Air Patrol and who has been duly directed and authorized by the

10 United States Air Force, the Massachusetts Emergency Management Agency, or other political
11 subdivision of the commonwealth that has the authority to authorize an emergency operational
12 mission of the Massachusetts Wing of the Civil Air Patrol, to respond to an emergency
13 operational mission, within or outside of the state, of the Massachusetts Wing of the Civil Air
14 Patrol.

15

16 (b) "Employee" means a person who may be permitted, required, or directed by an
17 employer for wages or pay to engage in any employment and who has been employed by that
18 employer for at least a 90-day period immediately preceding the commencement of leave, if
19 otherwise

20 eligible for leave.

21

22 (c) "Employee benefits" means all benefits, other than salary and wages, provided or
23 made available to an employee by an employer and includes group life insurance, health
24 insurance, disability insurance, and pensions, regardless of whether benefits are provided by a
25 policy or practice of an employer.

26

27 (d) "Employer" means any person, partnership, corporation, association, or other business
28 entity; or the commonwealth, a municipality, or other unit of local government; that employs
29 more

30 than 15 employees.

31 Section 2. An employer shall not discriminate against or discharge from employment a
32 member of the Civil Air Patrol because of such membership and shall not hinder or prevent a
33 member from performing service as part of the Massachusetts Wing of the Civil Air Patrol
34 during an emergency operational mission of the Massachusetts Wing of the Civil Air Patrol for
35 which a member is entitled to leave under this part.

36 Section 3. (a) An employer shall provide not less than 10 days per calendar year of
37 unpaid Civil Air Patrol leave to an employee responding to an emergency operational mission of
38 the Massachusetts Wing of the Civil Air Patrol. Civil Air Patrol leave for a single emergency
39 operational mission shall not exceed three days, unless an extension of time is granted by the
40 governmental entity that authorized the emergency operational mission, and the extension of the
41 leave is approved by the employer.

42 (b) Notwithstanding paragraph (a), an employer is not required to grant Civil Air Patrol
43 leave to an employee who is required to respond to either the same or other simultaneous
44 emergency operational mission as a first responder or disaster service worker for a local, state, or
45 federal agency.

46 Section 4. (a) An employee shall give the employer as much notice as possible of the
47 intended dates upon which the Civil Air Patrol leave will begin and end.

48 (b) An employer may require certification from the proper Civil Air Patrol authority to
49 verify the eligibility of the employee for the leave requested or taken. The employer may deny
50 the leave to be taken as Civil Air Patrol leave if the employee fails to provide the required
51 certification.

52 Section 5. An employee taking leave under this part shall not be required to exhaust all
53 accrued vacation leave, personal leave, compensatory leave, sick leave, disability leave, and any
54 other leave that may be available to the employee in order to take Civil Air Patrol leave.

55 Section 6. Nothing in this act prevents an employer from providing paid leave for leave
56 taken pursuant to this part.

57 Section 7. An employer shall, upon expiration of a leave authorized by this part, restore
58 an employee to the position held by him or her when the leave began or to a position with
59 equivalent seniority status, employee benefits, pay, and other terms and conditions of
60 employment. An employer may decline to restore an employee as required in this subdivision
61 because of conditions unrelated to the exercise of rights under this part by the employee.

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63 An employer and an employee may negotiate for the employer to maintain the benefits of
64 the employee at the expense of the employer during the leave.

65 Section 8. (a) Taking Civil Air Patrol leave under this part shall not result in the loss of
66 an employee benefit accrued before the date on which the leave began.

67 (b) This part does not affect the obligation of an employer to comply with any collective
68 bargaining agreement or employee benefit plan that provides greater leave rights to employees
69 than the rights provided under this part.

70 (c) The rights provided under this part shall not be diminished by any collective
71 bargaining agreement or employee benefit plan entered into on or after June 1, 2015.

72 (d) This part does not affect or diminish the contract rights or seniority status of an
73 employee not entitled to Civil Air Patrol leave.

74 Section 9. (a) An employer shall not interfere with, restrain, or deny the exercise or the
75 attempt to exercise a right established by this part.

76 (b) An employer shall not discharge, fine, suspend, expel, discipline, or in any other
77 manner discriminate against an employee who does any of the following:

78 (1) Exercises a right provided under this part.

79 (2) Opposes a practice made unlawful by this part.

80 Section 10. (a) An employee may bring a civil action in the superior court of the
81 appropriate county to enforce this part.

82 (b) The court may enjoin any act or practice that violates this part and may order any
83 equitable relief necessary and appropriate to redress the violation or to enforce this part.