

HOUSE No. 709

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen Kulik

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 conserving our natural resources.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Walter F. Tamily</i>	<i>7th Norfolk</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>David K. Muradian, Jr.</i>	<i>9th Worcester</i>
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>

Paul McMurtry

11th Norfolk

William Smitty Pignatelli

4th Berkshire

Brian M. Ashe

2nd Hampden

HOUSE No. 709

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 709) of Stephen Kulik and others for legislation to regulate the use of trapping devices to take beaver and muskrat. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 750 OF 2013-2014.]

The Commonwealth of Massachusetts

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

An Act conserving our natural resources.

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

1 An Act conserving our natural resources

2 SECTION 1. Chapter 131 of the Massachusetts General Laws is hereby amended by
3 striking the first and second paragraphs of Section 80A in their entirety and inserting in place
4 thereof the following:

5 Section 80A. Notwithstanding any other provision of this chapter, a person shall not use,
6 set, place or maintain any trap for the purpose of capturing furbearing mammals, except for
7 common type mouse and rat traps, nets, and box or cage type traps, as otherwise permitted by
8 law. A box or cage type trap is one that confines the whole animal without grasping any part of
9 the animal, including Hancock or Bailey’s type live trap for beavers. Other than nets and

10 common type mouse or rat traps, traps designed to capture and hold a furbearing mammal by
11 gripping the mammal's body, or body part are prohibited, including steel jaw leghold traps,
12 padded leghold traps, and lethal snares.

13 The above provision remains in effect in its entirety, with the exception for use;
14 "Conibear®" style traps, non-lethal cable restraints, "dog proof" foot encapsulation restraints or
15 other devices designed not to the harm the animal by state departments of health, departments of
16 fish and game or municipal boards of health, or their agents for the purpose of protection from or
17 alleviation of threats to human health and safety, the conduct of scientific research, the protection
18 of state or federally listed endangered or threatened species; or, between the months of
19 November and April inclusive, for the management of wildlife classified as furbearers by the
20 Division of Fisheries and Wildlife, at times and according to regulations and restrictions set forth
21 by the Division by qualified, licensed individuals. A threat to human health and safety may
22 include, but shall not be limited to:

23 (a) beaver or muskrat occupancy of a public water supply;

24 (b) beaver or muskrat-caused flooding of drinking water wells, well fields or water
25 pumping stations;

26 (c) beaver or muskrat-caused flooding of sewage beds, septic systems or sewage pumping
27 stations;

28 (d) beaver or muskrat-caused flooding of a public or private way, driveway, railway or
29 airport runway or taxi-way;

30 (e) beaver or muskrat-caused flooding of electrical or gas generation plants or
31 transmission or distribution structures or facilities, telephone or other communications facilities
32 or other public utilities;

33 (f) beaver or muskrat-caused flooding affecting the public use of hospitals, emergency
34 clinics, nursing homes, homes for the elderly or fire stations;

35 (g) beaver or muskrat-caused flooding affecting hazardous waste sites or facilities,
36 incineration or resource recovery plants or other structures or facilities whereby flooding may
37 result in the release or escape of hazardous or noxious materials or substances;

38 (h) the gnawing, chewing, entering, or damage to electrical or gas generation,
39 transmission or distribution equipment, cables, alarm systems or facilities by any beaver or
40 muskrat;

41 (i) beaver or muskrat-caused flooding or structural instability on property owned by the
42 applicant if such animal problem poses an imminent threat of substantial property damage or
43 income loss, which shall be limited to: (1) flooding of residential, commercial, industrial or
44 commercial buildings or facilities; (2) flooding of or access to commercial agricultural lands
45 which prevents normal agricultural practices from being conducted on such lands; (3) reduction
46 in the production of an agricultural crop caused by flooding or compromised structural stability
47 of commercial agricultural lands; (4) flooding of residential lands in which the municipal board
48 of health, its chair or agent or the state or federal department of health has determined a threat to
49 human health and safety exists. The department of environmental protection shall make any
50 determination of a threat to a public water supply.

51 SECTION 2. Said section 80A of said chapter 131 is hereby amended by striking the
52 third paragraph in its entirety and inserting in place thereof the following:

53 An applicant or his duly authorized agent may apply to the municipal board of health for
54 an emergency permit to immediately alleviate a threat to human health and safety, as defined in
55 the previous paragraph. If the municipal board of health determines that such a threat exists, it
56 shall immediately issue said emergency permit to alleviate the existing threat to human health
57 and safety, for a period not exceeding ten days. If a denial is given to said application, it shall be
58 remitted, in writing to the applicant within ten (10) days of the date of application. Further, said
59 denial will accompany instructions which shall explain the applicants rights and privileges for
60 appeal of said denial to the state Division of Fisheries and Wildlife. If the state Division of
61 Fisheries and Wildlife or director determines that such a threat exists, it shall immediately issue
62 said emergency permit to alleviate the existing threat to human health and safety, for a period not
63 exceeding ten days.

64 SECTION 2. Section 80A of Chapter 131 of the General Laws, as appearing in the 2004
65 Official Edition, is hereby amended by adding at the end thereof, the following new paragraph: -

66 Any person issued a permit as provided by this section shall, within thirty days of the
67 expiration of such permit or extension of same shall report to the director of the division of
68 fisheries and wildlife, on a form approved by said director, the municipality of which the request
69 was made, the name of the property owner, address of the property threatened, the name of
70 authorized agent, method used to alleviate the problem, and the number, by species, of animals
71 taken pursuant to the permit, and other information deemed necessary by the director.