

**SENATE . . . . . No. 00744**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Cynthia S. Creem, (BY REQUEST)*

*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 regulating the maintenance of encroaching vegetation.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Howard Smolar*

*31 Donna Rd.*

*Newton, MA*

*Cynthia S. Creem*

*First Middlesex and Norfolk*

**SENATE . . . . . No. 00744**

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By Ms. Creem, petition (accompanied by bill, Senate, No. 744) of Creem for legislation to regulate the maintenance of encroaching vegetation [Joint Committee on the Judiciary].

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The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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An Act regulating the maintenance of encroaching vegetation.

*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 266 of the General Laws is hereby amended by inserting after  
2 section 120B the following section:-

3 Section 120B1/2.

4           (a) As used in this section, “vegetation” shall include shrubs and other plant life, but  
5 shall not include trees.

6           (b) An individual property owner may remove any encroaching branches, roots or  
7 other vegetation up to that individual’s property line.

8           (c) Where encroaching vegetation causes actual harm or poses an imminent danger of  
9 actual harm to adjoining property, the owner of the property wherein the vegetation originates  
10 shall be required to remove the endangering vegetation from the abutting property up to the  
11 property line. The owner of the property wherein the vegetation originates shall be allowed

12 access onto abutting properties for the purpose of determining whether such encroachment  
13 reaches the level of actual harm or imminent danger which would require such action. If access  
14 to a property for such inspection is denied, the owner of the property on which the vegetation  
15 originates may be held harmless for any actual harm ensuing on the encroached upon property  
16 due to vegetation.

17 (d) Where encroaching vegetation does not cause actual harm or pose an imminent  
18 danger of actual harm, the property owner on whose property the vegetation is encroaching may  
19 request that the owner of the vegetation remove the encroaching vegetation.

20 (1) In order to require the owner of vegetation to contain certain vegetation  
21 within the abutting owner's property which has been requested to be controlled, where the  
22 vegetation does not cause harm or pose a threat of harm to the adjoining property, the owner of  
23 the adjoining property must provide the owner of the property on which the vegetation arose  
24 with a written request to maintain encroaching vegetation.

25 (2) The owner of the vegetation shall not be in violation of this section so  
26 long as the owner complies with the written request for maintenance within reasonable time.

27 (3) If the owner of property on which vegetation is encroaching make a  
28 written request, that owner shall have a reasonable expectation that the owner of the vegetation  
29 shall continue to remove or control vegetation originating on the abutting property, so long as  
30 both owners continue to own those abutting properties.

31 (e) Whoever, being the owner of land abutting that of another, is the owner of  
32 vegetation which has encroached on or over the land of such other person as to require an entry  
33 on said abutting land for the purpose of performing reasonable and necessary maintenance of the

34 vegetation in order to comply with the reasonable written request by the owner of the encroached  
35 property or his agent, shall not be deemed guilty of trespass or liable civilly for damages,  
36 provided that such entry is made expeditiously and in the exercise of due care, and that no  
37 damage is caused by such entry to the land of said abutting owner. Before such entry said owner  
38 shall be in receipt of a written request to enter on adjoining land from the owner for the purpose  
39 of maintaining or removing vegetation belonging to him which has now encroached on the  
40 abutting property. No person so entering on land of another shall store material or tools thereon.  
41 After said entry, said owner shall in all respects restore said adjoining land to the condition in  
42 which it was prior to said entry.