

By Mr. Bulger, a petition (accompanied by bill, Senate, No. 1810) of William M. Bulger for legislation to authorize a public right-of-access along the coastline of the Commonwealth. Transportation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Nine.

AN ACT AUTHORIZING A PUBLIC RIGHT-OF-PASSAGE ALONG THE COASTLINE OF THE COMMONWEALTH.

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 91 of the General Laws is hereby
2 amended by inserting after section 18A of said chapter 91, the
3 following new section: —

4 Section 18B. Public Right-of-Passage on the Coastline.

5 It is hereby declared and affirmed that the reserved interests
6 of the public in the land along the coastline of the commonwealth
7 require a public on-foot free right-of-passage along the shore of
8 the coastline between the mean high water line and the extreme
9 low water line subject to the restrictions and limitations as
10 contained in this section and said right is hereby secured.

11 Said public on-foot free right-of-passage shall not be exercised
12 (1) later than one-half hour after sunset nor earlier than sunrise
13 (2) where the commissioner of the department of environmental
14 management for the purpose of protecting marine fisheries and
15 wildlife or for controlling erosion, designates and posts natural
16 areas of critical ecological significance as areas in which on either
17 a regular or seasonal basis as circumstances in each situation
18 require that the public not exercise the on-foot free right-of-
19 passage (3) where there exists a structure, enclosure or other
20 improvements made or allowed pursuant to any law or any license,
21 permit or other authority issued or granted under the General
22 Laws or where there exist agricultural fences for purposes of
23 enclosing livestock, provided that such area is clearly and

24 conspicuously posted. The exercise of the on-foot right-of-passage
25 in violation of the limitations and restrictions of this paragraph
26 shall be punishable by a fine of not less than twenty nor more
27 than fifty dollars.

28 In any action concerning the exclusion of on-foot right-of-
29 passage, the burden of proof shall be upon the person who seeks
30 to exclude or limit the exercise of said public rights. Whenever
31 it is found that a person seeks to exclude the on-foot right-of-
32 passage by unlawfully posting said area, then such person shall
33 be punished by a fine of not less than twenty nor more than fifty
34 dollars.

35 Any inference with, or any acts making unsafe, the on-foot free
36 right-of-passage including, but not limited to, (1) the use of force
37 or (2) maintenance of any fence or other obstruction not
38 specifically authorized under the General Laws or a license, permit
39 or other authority issued or granted under the General Laws, is
40 hereby declared to be unlawful. This section may be enforced
41 under section eleven D of Chapter twelve or, in an action brought
42 in district court by a person directly affected by a violation of this
43 section, for such monetary and equitable relief as the court deems
44 to be necessary and proper.

45 Any person who is exercising the public on-foot free right-of-
46 passage deposits or causes to be deposited in the water or on the
47 shore garbage, paper, refuse, bottles, cans, rubbish or trash of any
48 kind or nature shall be punished by a fine of not less than twenty
49 nor more than fifty dollars.

50 Except as to injuries proximately caused by a violation of this
51 section, the exercise by the public of the on-foot free right-of-
52 passage shall be considered a permitted use to which the limited
53 liability provisions of chapter twenty-one, section seventeen C of
54 the General Laws shall apply.

55 It shall be the responsibility of the department of environmental
56 management to implement the provisions of this chapter. The
57 public-on-foot free right-of-passage secured by the provisions of
58 this chapter shall not become effective with respect to any
59 particular parcel of private property until such time as the
60 commissioner of the department of environmental management
61 has filed an order of taking describing property in the manner
62 provided for by section three of chapter seventy-nine. Said

63 commissioner shall also comply with all other provisions of
64 chapter seventy-nine as they apply to a public taking of an interest
65 in private land. With respect to public land, the public-on-foot
66 free right-of-passage shall take effect on the effective date of this
67 chapter and said commissioner need only comply with the notice
68 provisions of chapter seventy-nine.

1 SECTION 2. This act shall take effect upon its passage.

