

HOUSE No. 4751

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 26, 2020.

The committee on Public Health to whom was referred the message from His Excellency the Governor recommending legislation to mitigate arbovirus in the Commonwealth (House, No. 4650), reports recommending that the accompanying bill (House, No. 4751) ought to pass.

For the committee,

JOHN J. MAHONEY.

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In the One Hundred and Ninety-First General Court
(2019-2020)

An Act to mitigate arbovirus in the Commonwealth.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith make a certain change in law to allow the Commonwealth to immediately respond to the significant public health risks associated with the transmission of arbovirus from mosquitoes to humans, such change being immediately necessary to carry out to accomplish important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience.

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 252 of the General Laws, as appearing in the 2018 Official Edition,
2 is hereby amended by inserting after section 2 the following section:-

3 Section 2A. (a) Upon the written determination of the commissioner of public health
4 that an elevated risk of arbovirus exists or may exist for the following year, the board, in
5 consultation with the department of public health, may engage in preventive, management and
6 eradication methods as it deems necessary in any area of the commonwealth. The commissioner
7 shall publish the determination on the website of the department of public health and shall
8 include a summary of the data supporting the determination. The commissioner shall also
9 provide notice to the chairs of the joint committees on public health and environment, natural
10 resources and agriculture of the determination. In carrying out its authority under this section, the

board may act through any district or project duly organized under this chapter, other agencies of the commonwealth, and may employ other professionals as the board deems necessary.

(b) (1) The board shall provide notice of the methods employed pursuant to subsection (a), including the locations, dates, and times of aerial spraying or other wide-area emergency operations, at least 48 hours prior to the application thereof, to entities within the affected areas including (i) appropriate local and regional boards and commissions, including boards of health; (ii) property owners who have opted out of spraying; (iii) agricultural entities including beekeepers, cranberry growers, certified organic farms, and aquaculture facilities; and (iv) any other persons that inform the board through a form on the board's website that they wish to be informed of aerial spraying in their region. Any aerial spraying notice shall also specify the particular product to be sprayed and any health risks associated with the product. The board shall also provide such notice to all other entities within affected areas as provided in the Massachusetts emergency operations response plan for mosquito-borne illnesses, as amended from time to time, including integrated pest management standard written notices to schools, day care centers and school age child care programs. The board shall also provide notice to such entities and to the general public by posting the notice to its website at least 48 hours prior to application and informing local officials and the legislative representatives of the areas being sprayed. Notice provided under this subsection shall also include the procedure for owners of property located within the spraying area, including those with property located outside of a mosquito control district, to opt out of aerial spraying or other wide-area emergency operations.

(2) The department of public health shall develop a process or guidance for the board to allow municipalities to opt out of spraying conducted pursuant to subsection (a), provided that

any such process or guidance requires municipalities to have their alternative mosquito management plan approved by the department.

(c) Within 30 days of the application of any preventive, management and eradication methods under subsection (a), the board shall make available on its website a report summarizing the specific methods used, the areas that were sprayed, the number of applications, the products applied, and the results of the actions.

(d) All actions taken under the authority of this section shall be designed to protect public health while minimizing to the extent feasible any adverse impact to the environment.

SECTION 2. Section 2A of chapter 252 of the General Laws is hereby repealed.

SECTION 3. (a) There is hereby created a mosquito control for the 21st century task force. The task force shall study the commonwealth's mosquito control process established under chapter 252 of the General Laws and this act, and recommend comprehensive reforms of the commonwealth's mosquito control system. The task force shall be chaired by the commissioner of public health, or designee, and include: 1 representative of the department of agricultural resources; 1 representative of the department of conservation and recreation; 1 representative of the department of environmental protection; 1 representative of the division of fish and wildlife; and 2 representatives to be chosen by the state reclamation and mosquito control board, 1 of whom shall be a representative of a city or town that is part of a mosquito control district and 1 of whom shall be a representative of a city or town that is not part of a mosquito control district but had significant mosquito activity in the past year.

The task force shall include additional members chosen by the commissioner of public health who are representatives of: a statewide land conservation organization; a regional or

statewide river protection organization; a statewide wildlife protection organization; an academic epidemiologist with expertise in arbovirus spread and control; an academic expert in pesticides and mosquito control; an organization representing farms and agriculture; an organization representing organic farms and agriculture; and an organization representing bee keepers or groups concerned about pollinators.

(b) The chairs of the joint committees on public health and environment, natural resources and agriculture, or designees, shall be observers and shall be invited to all meetings of the task force.

(c) All meetings of the task force shall be open to the public. The task force shall hold at least one public listening session.

(d) The task force may commission a study by an independent research or academic organization with expertise in the environmental and health effects of pesticides, pest management and mosquito control to do a comprehensive evaluation of the 2020 mosquito control process. The evaluation shall in particular determine the effectiveness of any spraying by examining the impact of the spraying on arbovirus diseases, the cost-effectiveness of the spraying, the impact of spraying on the environment, agriculture and wildlife, and other factors.

(d) The task force shall recommend legislation to amend current laws relative to mosquito control in the commonwealth. In developing proposed legislation, the task force shall review and make recommendations regarding the following: (i) facilitating the use of integrated pest management, including surveillance, public education, enhanced habitat for mosquito predators, and storm water management; (ii) promoting public participation in mosquito management decisions; (iii) providing for local options regarding the use of pesticides; (iv)

77 protection of organic agriculture from pesticide use; (v) recommendations for changes, if any, to
78 the composition of the state reclamation and mosquito control board; (vi) development of
79 procedures to protect human and ecological health and minimize non-target impacts of mosquito
80 pesticides, including effects on persons with respiratory or immune system illnesses, drinking
81 water supplies, pollinators, and aquatic life; (vii) promoting the use of the safest or minimum risk
82 pesticides feasible and employing methods, including product disclosures or implementation of
83 testing protocols and procedures, to avoid the use of pesticides containing per- and
84 polyfluoroalkyl substances; (viii) providing for comprehensive annual evaluations of each
85 season's mosquito control process including the effectiveness of the process in controlling
86 arbovirus and any effects of spraying on the environment, agriculture and wildlife; and (ix) such
87 other priorities as the task force shall determine.

88 (e) The task force shall file its findings, recommendations and accompanying legislation
89 with the house and senate clerks and the chairs of the joint committees on public health and
90 environment, natural resources and agriculture before July 1, 2021.

91 SECTION 4. Section 2 of this act shall take effect on December 31, 2022.