

HOUSE No. 712

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 to promote farm viability.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>

HOUSE No. 712

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 712) of Stephen Kulik and others for legislation to promote farm viability. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

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

An Act to promote farm viability.

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:

2 Chapter xxxxx of the General Laws is hereby amended by inserting after xxxxx the
3 following section:---

4 Section xxxxx. No general by-law or ordinance shall prohibit, unreasonably regulate, or
5 require a permit for commercial agriculture on land or in structures qualified under G.L. c. 40A,
6 Sec. 3, or agricultural activities, operations, and practices associated therewith. Land divided by
7 a public or private way or a waterway shall be considered one parcel. For the purposes of this
8 section, the term "agriculture" shall be as defined in section 1A of chapter 128, and the term
9 horticulture shall include the growing and keeping of nursery stock and the sale thereof. Said
10 nursery stock shall be considered to be produced by the owner or lessee of the land if it is
11 nourished, maintained, and managed while on the premises.

12 Section 2

13 Chapter 111 is hereby amended in section1 by inserting the following definitions:

14 Agricultural Commission - a standing committee of town government, created through a
15 vote of Town Meeting and or appointed by the Board of Selectmen, chief elected official or
16 governing body of the town, intended to protect and promote agriculture within a community.

17 SECTION 3:

18 Chapter 111 of the General Laws is hereby amended by inserting after section 31E the
19 following section:

20 Section 31F (a) No local board of health (board) regulation (regulation) shall prohibit or
21 unreasonably regulate commercial agriculture on land or in structures qualified under G.L. c.
22 40A, Sec. 3, or agricultural activities, operations, and practices associated therewith. For the
23 purposes of this section, the term "agriculture" shall be as defined in section 1A of chapter 128.

24 (b) The applicability of any board regulation shall be deferred in effect as applied to
25 agriculture until and unless the regulation is found to be consistent with Section 31F(a) as
26 provided in this subsection.

27 (1) In communities with agricultural commissions as defined in this chapter, no Board of
28 Health Regulation which impacts on agricultural operations as defined in MGL Chapter 128
29 section 1a shall take effect until the Board of Health:

30 a) submits a copy of the regulation to the agricultural commission within their
31 community. Within 45 days of receipt, the agricultural commission shall hold an open public
32 meeting to review the regulation and its potential impact on agriculture and subsequently submit
33 written recommendations to the board of health. The regulations may go into immediate effect if

34 the board of health adopts the recommendations of the agricultural commission or the two bodies
35 agree upon a compromise set of regulation through a mutually agreed upon process and
36 timeframe. In the absence of agreement, the two bodies shall submit to mediation under the
37 auspices of the Massachusetts Office of Public Collaboration or other entity as identified by the
38 Department of Agricultural Resources.

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