

SENATE No. 2171

The Commonwealth of Massachusetts

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

SENATE, Thursday, March 10, 2016

The committee on Environment, Natural Resources and Agriculture, to whom was referred the petitions (accompanied by bill, Senate, No. 411) of Anne M. Gobi, Paul A. Schmid, III, Bruce E. Tarr, Ann-Margaret Ferrante and other members of the General Court for legislation to establish the Veterans and Warriors to Agriculture Program; (accompanied by bill, Senate, No. 417) of Anne M. Gobi for legislation relative to Massachusetts forester licensing; (accompanied by bill, Senate, No. 419) of Anne M. Gobi, James B. Eldridge, Ellen Story, Stephen Kulik and other members of the General Court for legislation relative to the distribution of raw milk; (accompanied by bill, Senate, No. 425) of Anne M. Gobi for legislation relative to timber harvester licensing; (accompanied by bill, House, No. 688) of Paul R. Heroux, Benjamin Swan and Chris Walsh relative to farmers' markets; (accompanied by bill, House, No. 689) of Kate Hogan and others that cities and towns be authorized to establish agricultural commissions for the promotion and development of agricultural resources; (accompanied by bill, House, No. 748) of Paul A. Schmid III and others for legislation to protect the viability of farms and farming in the Commonwealth; and (accompanied by bill, House, No. 3648) of William Smitty Pignatelli for legislation to exempt the personal use of milk and raw milk products by owners of cows and goats from certain laws governing the use of said products, - reports the accompanying bill (Senate, No. 2171).

For the committee,
Anne M. Gobi

SENATE No. 2171

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(2015-2016)

An Act to promote agriculture in 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. Section 6C of chapter 20 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by striking, in line 3, the figure “17” and inserting in its
3 place thereof the following figure:- 18

4 SECTION 2. Said section 6C of said chapter 20, as so appearing, is further amended by
5 inserting in line 14 after the word “designee” the following words:- ; 1 of whom shall be the
6 commissioner of fish and game, or the commissioner’s designee

7 SECTION 3. The first paragraph of section 23 of said chapter 20, as so appearing, is
8 hereby amended by inserting after the words “administered by”, in lines 21 and 22, the following
9 words:- agricultural commissions or

10 SECTION 4. Chapter 29 of the General Laws, as appearing in the 2014 Official Edition,
11 is hereby amended by striking out section 2III and inserting in place thereof the following
12 section:-

Section 2III. There shall be established and set upon the books of the commonwealth a separate fund to be known as the Agricultural Resolve and Security Fund, the funds of which shall be expended to foster agriculture, as defined in section 1A of chapter 128, in the commonwealth and for furthering other purposes and programs of the department of agricultural resources as set forth in any general or special law including, but not limited to, agricultural education, support for sustainable agriculture and pollution prevention, agricultural integrated pest management programs, agricultural land preservation, control of animal diseases, emergency preparedness, agricultural innovation, the agricultural food safety improvement program, the farm viability enhancement program and the urban agriculture program.

The Agricultural Resolve and Security Fund may receive monies from: (1) gifts, grants and donations from public or private sources; (2) federal reimbursements and grants-in-aid; (3) revenues retained equal to 10 per cent, but not exceeding \$400,000, of annual pesticide product registration fees collected pursuant to section 7 of chapter 132B; and (4) any interest earned from the fund. The state treasurer shall receive, deposit and invest funds held in such a manner as to ensure the highest interest rate available consistent with the safety of the fund. The books and records of the fund shall be subject to an annual audit by the state auditor. The department may expend such funds and no expenditure from the fund shall cause it to be in deficiency at the close of a fiscal year. The commissioner of the department of agricultural resources shall report annually to the house and senate committees on ways and means and the joint committee on environment, natural resources and agriculture on income received into the fund and sources of that income, any expenditure from the fund and their purposes and fund balances. Monies deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the

General Fund and shall be available for expenditure in the subsequent year and shall not be subject to section 5C of chapter 29.

SECTION 5. Section 2DDDD of said chapter 29, as so appearing, is hereby amended by inserting in line 17, after the word “including”, the following words:- transfers to the Massachusetts Veterans and Warriors to Agriculture Program Fund established in section 2SSSS of chapter 29, which shall not be subject to appropriation and shall consist of 2 per cent of the total amounts credited annually to the fund but not to exceed an annual amount more than \$300,000, and

SECTION 6. Said chapter 29 of the General Laws is hereby further amended by inserting after section 2RRRR the following section:-

Section 2SSSS. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Massachusetts Veterans and Warriors to Agriculture Program Fund, in this section referred to as the fund. The fund shall be administered by the department of agricultural resources. Notwithstanding any general or special law to the contrary, there shall be credited to the fund any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, and any gifts, grants, private contributions, or investment income earned on the fund’s assets and all other sources. Monies deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent year and shall not be subject to section 5C of chapter 29.

(b) The public purpose of the fund shall be to enhance the education, training, employment, income, productivity and retention of veterans currently working or aspiring to

work in the field of agriculture in the commonwealth. The department of agricultural resources, in consultation with the department of veteran services, shall establish, develop, and implement the Massachusetts Veterans and Warriors to Agriculture Program in furtherance of this purpose. Amounts credited to the fund shall be used, without further appropriation, for the costs associated with administering and implementing the program and may also be used to provide grants or loans on a competitive basis to public, private, and charitable entities to finance projects in furtherance of this public purpose. Expenditures from the fund for such purpose shall complement and not replace existing local, state, private or federal funding for related training and educational programs.

SECTION 7. Section 1 of chapter 30A of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting, after the definition of “Agency”, the following definition:-

(2A) “Agriculture”, an agricultural or farm related activity, enterprise or process, as defined under section 1A of chapter 128.

SECTION 8. The fifth paragraph of section 2 of said chapter 30A, as so appearing, is hereby amended in clause (4), by striking out, in line 47, the word “and”.

SECTION 9. Said fifth paragraph of said section 2 of said chapter 30A, as so appearing, is hereby further amended by striking out clause (5), and inserting in place thereof the following 2 clauses:-

(5) an analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the commonwealth; and

(6) an evaluation of any direct or substantial effect on commercial agriculture operations that would likely result from the proposed regulation.

SECTION 10. The fifth paragraph of section 3 of said chapter 30A, as so appearing, is hereby amended in clause (4), by striking out, in line 43, the word “and”.

SECTION 11. Said fifth paragraph of said section 3 of said chapter 30A, as so appearing, is hereby further amended by striking out clause (5), and inserting in place thereof the following 2 clauses:-

(5) an analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the commonwealth; and

(6) an evaluation of any direct or substantial effect on commercial agriculture operations that would likely result from the proposed regulation.

SECTION 12. Section 5 of said chapter 30A, as so appearing, is hereby amended by inserting after the third paragraph, the following paragraph:-

Said small business impact statement shall also specify whether the methods of reducing the adverse impact of the proposed regulation on commercial agriculture operations, if any, would hinder achievement of the purpose of the proposed regulation.

SECTION 13. Said chapter 30A of the General Laws is hereby further amended by inserting after section 5A, the following section:-

Section 5B. The state secretary within 10 days of receipt of a small business impact statement filed under this chapter, which indicates that a proposed regulation will directly or

substantially impact commercial agriculture operations, shall forward copies of the statement with the proposed regulation to the department of agricultural resources.

SECTION 14. Chapter 40 of the General Laws is hereby amended by inserting after section 8K the following section:

Section 8L. (a) A city or town which accepts this section may establish an agricultural commission, hereafter called the commission, for the promotion and development of the agricultural resources of said city or town. A municipal agricultural commission, unless otherwise restricted by law, may: (i) buy, hold, manage, license or lease land for agricultural purposes, (ii) educate the public on agricultural issues, (iii) advocate for farmers, farm businesses and farm interests, (iv) assist farmers in resolving farm related municipal problems or conflicts, (v) seek to coordinate agricultural related activities with other governmental bodies or unofficial local groups or organizations that promote agriculture, (vi) receive grants, gifts, bequests or devises of personal or monetary property of any nature and interest in real property in accordance with the provisions of this section; (vii) apply for, receive, expend and act on behalf of the municipality in connection with federal and state grants or programs, or private grants, for purposes of said commission as related to local agriculture, with the approval in a city of the mayor or city manager, or in a town, of the selectmen; and (viii) advertise, prepare, print and distribute books, maps, charts, and pamphlets related to local agricultural, which in its judgment it deems necessary for its work.

(b) Said commission may conduct research and prepare agriculture related plans, including a comprehensive local agricultural land plan which shall be, to the extent possible, consistent with any current town master plan and regional area plans. Such plan shall show or

120 identify: (i) agricultural land areas and facilities; (ii) matters which may be shown on a plat index
121 under section 33 of chapter 184; (iii) acquisitions of interest in land under this section; (iv)
122 municipal lands that are held as open space; (v) non-municipal land subject to legal
123 requirements or restrictions for the purposes to protect or for use as open space, conservation,
124 recreation, or agriculture; (vi) land that should be retained as a public necessity for agricultural
125 use; and (vii) any other information the commission determines to be relevant to local
126 agricultural land use. The commission may amend such plan at any time deemed necessary.

127 (c) The commission may appoint a chair, clerks, consultants and other employees, and
128 may contract for materials and services as it may require, subject to appropriation by the
129 municipality.

130 (d) The municipal agricultural commission shall keep accurate records of its meetings
131 and actions and shall file an annual report with the municipal clerk. The commission's annual
132 report shall be posted on the municipality's public website and, in a town, shall be printed in the
133 annual town report for such year.

134 (e) A municipal agricultural commission shall consist of not less than 3 or more than 7
135 members who shall be residents of the municipality and of which a majority shall be farmers or
136 employed in an agricultural related field. In the event such farmers or those employed in
137 agriculture are unavailable to serve on the commission, then the commission shall include a
138 majority of members with knowledge and experience in agricultural practices or knowledge of
139 related agricultural business. Members originally appointed hereunder shall serve for terms of 1,
140 2, or 3 years and so arranged that the terms of approximately one third of its members shall
141 expire each year. Successor shall serve for terms of 3 years.

142 In cities, the members of the municipal agricultural commission shall be appointed by the
143 mayor, subject to the provisions of the city charter, except that in cities having or operating under
144 a Plan D or Plan E form of city charter, said appointments shall be by the city manager, subject
145 to the provisions of the charter. In towns, the members of the municipal agricultural commission
146 shall be appointed after a public hearing by the selectmen, except in towns having a manager
147 form of government, in which towns appointments shall be made by the town manager, subject
148 to the approval of the selectmen.

149 Any member of a municipal agricultural commission may be removed for cause by the
150 appointing authority, after a public hearing, if requested by such member. A vacancy created in
151 such a manner shall be filled by the appointing authority for the unexpired term in the same
152 manner as the original appointment.

153 (f) A municipal agricultural commission may receive gifts, bequests or devises of
154 personal property or interests in real property of the kinds mentioned in this subsection in the
155 name of the city or town, subject to the approval of the city council, if a city, or of the selectmen,
156 if a town. The municipal agricultural commission may purchase interests in such land with only
157 with funds available to said commission. If insufficient funds are available or other reasons so
158 require, a city council or a town meeting may raise or transfer funds so that the commission may
159 acquire in the name of the city or town by option, purchase, lease or otherwise the fee in such
160 land or water rights, conservation or agricultural restrictions, easements or other contractual
161 rights including conveyances on conditions or with limitations or reversions, as may be
162 necessary to acquire, maintain, improve, protect, limit the future use of or otherwise conserve
163 and properly utilize open spaces in land and water areas within its city or town, and it shall

164 manage and control the same. Notwithstanding, said commission shall have no authority to take
165 or obtain land by eminent domain.

166 The commission shall adopt rules and regulations governing the use of land and waters
167 under its control, and prescribe civil penalties, not exceeding a fine of 100 dollars, for any
168 violation thereof.

169 (g) A city or town may appropriate money in any year to an agricultural preservation
170 fund of which the treasurer shall be the custodian. The treasurer shall receive, deposit, or invest
171 said funds and any other funds for said agricultural preservation fund, in savings banks, trust
172 companies incorporated under the laws of the commonwealth, banking companies incorporated
173 under the laws of the commonwealth which are members of the Federal Deposit Insurance
174 Corporation, or national banks, or invest it in paid up shares and accounts of and in co-operative
175 banks or in shares of savings and loan associations or in shares of federal savings and loan
176 associations doing business in the commonwealth, and any income therefrom shall be credited to
177 the fund. Money in said fund may be expended by said commission for any purpose authorized
178 by this section.

179 (h) A municipal agricultural commission duly formed prior to the passage of this act shall
180 have the authority as provided under this section without further action to accept these
181 provisions.

182 SECTION 15. Said chapter 40 is hereby further amended by inserting after section 31,
183 the following section:-

184 Section 31A. The city or town clerk prior to the proposed adoption, change or repeal of
185 any (i) city ordinance or town by-law, and (ii) rule or regulation of a city or town, department,

board, district and commission, which if adopted would likely have a direct or substantial impact on commercial agriculture operations, shall provide notice to the department of agricultural resources in accordance with this section. Said notice shall be made no later than 14 days prior to the first occurring, public hearing or meeting related to the adoption or enactment of such ordinance, by-law, rule or regulation.

The proposed adoption, change or repeal of any rule or regulation of a regional municipal board, commission, district or committee, which if adopted or changed would likely have a direct or substantial impact on commercial agriculture operations, notice shall be provided by its executive officer in accordance with this section. Said notice shall be provided to the department of agricultural resources no later than 14 days prior to the first occurring, public hearing or meeting, relative to the adoption or enactment of such rule or regulation.

If said adoption of any, ordinance, bylaw, rule or regulation, is of an immediate emergency nature where notice cannot be timely provided, the clerk or executive officer, whichever may be the case, shall file such notice no later than 10 days of the adoption or enactment of such ordinance, bylaw, rule or regulation.

Any notice required under this section, shall be provided in the form and manner prescribed by the commissioner of the department of agricultural resources.

The provisions of this section shall not to apply to city ordinances or town by-laws relative to zoning under chapter 40A.

SECTION 16. Section 1A of chapter 40A of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting, before the definition of "Permit granting authority", the following definition:-

“Agriculture”, an agricultural or farm related activity, enterprise or process, as defined under section 1A of chapter 128.

SECTION 17. Section 5 of said chapter 40A, as so appearing, is hereby amended by inserting after the first paragraph, the following paragraph:-

If the proposed adoption or change of a zoning ordinance or bylaw will likely have a direct or substantial impact on commercial agriculture, the board of selectmen or city council, shall within 21 days of receipt of the proposed bylaw or ordinance, provide written notice to the department of agricultural resources. Said notice shall made in the form and manner prescribed by the commissioner of the department.

SECTION 18. Section 2 of chapter 61 of the general laws, as appearing in the 2014 Official Edition, is hereby amended by striking out, in line 40, the word “October”, and inserting in place thereof the following word:- December.

SECTION 19. Said section 2 of said chapter 61, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

When in judgment of the assessors, land which is classified as forest land or which is the subject of an application for such classification is not being managed under a program, or is being used for purposes incompatible with forest production, or does not otherwise qualify under this chapter, the assessors may, on or before February first in any year file an appeal in writing mailed by certified mail to the state forester requesting a denial of application or, in the case of classified land, requesting removal of the land from such classification. Such appeal shall state the reasons for such request. A copy of the appeal shall be mailed by the assessors by certified mail to the owner of the land. The state forester may initiate, on or before December first of any

year, a proceeding to remove land from classification, sending notice of his action by certified mail to the assessors and the owner of such land. The state forester may deny the owner's application, may withdraw all or part of the land from classification, or may grant the application, imposing such terms and conditions as he deems reasonable to carry out the purpose of this chapter, and shall notify the assessors and the owner of his decision no later than March first of the following year. If the owner or the assessors are aggrieved by his decision they may, on or before June fifteenth, give notice to the state forester of a claim of appeal. The state forester shall convene within 30 days after receipt of said notice of appeal, a panel in the region in which the land is located. Said panel shall consist of three members, one of whom shall be named by the state forester, one of whom shall be named by the assessors, and one of whom shall be named by the state forester and the assessors. Said panel shall give notice of the date and place of the hearing in writing to the parties seven days at least before the date of said hearing. The panel shall furnish the parties, in writing, a notice of its decision within ten days after the adjournment of said hearing. Decisions of the panel shall be by majority vote of its members. If the owner or the assessors are aggrieved by such decision, they may, within forty-five days from receipt of the decision, petition either the superior court in the county in which the land is located for a review of such decision under the provisions of chapter thirty A or the appellate tax board under the provisions of chapter fifty-eight A, and said land shall not be classified or withdrawn from classification until the final determination of such petition. The state forester may adopt such regulations as he deems necessary to carry out the provisions of this chapter.

SECTION 20. Chapter 61A of the General Laws is hereby amended by striking out sections 4 and 5, as appearing in the 2014 Official Edition, and inserting in place thereof the following 2 sections:-

253 Section 4. (a) For general property tax purposes, the value of land, not less than 5 acres in
254 area, which is actively devoted to agricultural, horticultural or agricultural and horticultural uses
255 during the tax year in issue and has been so devoted for at least the 2 immediately preceding tax
256 years, shall upon application of the owner of such land and approval thereof, be that value which
257 such land has for agricultural or horticultural purposes.

258 (b) For the said tax purposes, land so devoted shall be deemed to include such contiguous
259 land under the same ownership as is not committed to residential, industrial or commercial use
260 and which is covered by application submitted pursuant to section 6. Land shall be deemed
261 contiguous if it is separated from other land under the same ownership only by a public or
262 private way or waterway.

263 Land under the same ownership shall be deemed contiguous if it is connected to other
264 land under the same ownership by an easement for water supply.

265 (c) For the said tax purposes, land so devoted shall be deemed to include such non-
266 contiguous land under the same ownership as is not committed to residential, industrial or
267 commercial use and which is covered by application submitted pursuant to section 6. Non-
268 contiguous land shall only be included, if it is located within a ½ mile of any boundary of other
269 land under the same ownership and it is utilized together with such other land for a unified
270 agricultural, horticultural, or agricultural and horticultural, economic purpose.

271 (d) All such land, which is considered contiguous or non-contiguous for purposes of this
272 chapter shall not exceed in acreage 100 per cent of the acreage which is actively devoted to
273 agricultural, horticultural or agricultural and horticultural uses.

(e) The rate of tax applicable to such agricultural or horticultural land shall be the rate determined to be applicable to class 3, commercial property under chapter 59.

Section 5. Where land, including any contiguous and non-contiguous land, in agricultural, horticultural or agricultural and horticultural uses under one ownership is located in more than one city or town, compliance with the 5 acre minimum area requirements of section 4 shall be determined on the basis of the entire area of such land so devoted in accordance with said section, and not on the basis of the land area which falls within the bounds of any particular city or town.

SECTION 21. Said chapter 61A, as so appearing, is hereby further amended by striking out section 6 and inserting in place thereof the following section:-

Section 6. Eligibility of land for valuation, assessment and taxation pursuant to section 4 shall be determined separately for each tax year. Application therefor shall be submitted to the board of assessors of each city or town in which such land is situated not later than December first preceding each tax year for which such valuation, assessment and taxation are being sought and may not thereafter be withdrawn. Application shall be made on a form prescribed by the commissioner of revenue and provided for the use of claimants by said board of assessors. Such form shall provide for the reporting of information pertinent to the provisions of this chapter and of Article XCIX of the Articles of Amendment to the Constitution of the Commonwealth and for certification by the applicant that they will immediately, but no later than December first next following, notify the board of assessors in writing of any subsequently developing circumstance within their control or knowledge which may cause a change in use of the land covered by such form. Any application submitted under this section and covering leased land shall be

296 accompanied by a written statement signed by any lessee of their intent to use such land for the
297 purposes set forth in said application. A certification by a landowner that the information set
298 forth in their application is true may be prescribed by said commissioner to be in lieu of a sworn
299 statement to that effect. An application so certified shall be considered as if made under oath and
300 subject to the same penalties as provided by law for perjury. Upon allowance of any such
301 application under section 9, classification as land actively devoted to agricultural, horticultural or
302 agricultural and horticultural use shall take effect on January first preceding the beginning of the
303 tax year to which the application relates and taxation under this chapter shall commence with
304 that tax year.

305 SECTION 22. Section 7 of said chapter 61A, as so appearing, is hereby amended by
306 striking out, in line 3, the words “October first and June thirtieth of the year”, and inserting in
307 place thereof the following:- December first and June thirtieth.

308 SECTION 23. Said chapter 61A, as so appearing, is hereby amended by striking out
309 section 8 and inserting in place thereof the following section:-

310 Section 8. In any tax year for which a city or town has undertaken and completed a
311 program of revaluation of all property therein, applications by landowners for the valuation,
312 assessment and taxation of their lands on the basis of being actively devoted to agricultural or
313 horticultural or agricultural and horticultural use that are filed with the board of assessors not
314 later than the last day for filing an application for abatement of the tax assessed on the new
315 valuation shall be deemed to have been timely made for the tax year of the revaluation program,
316 notwithstanding any provision of this chapter to the contrary. If such application is approved and
317 the lands qualify for valuation, assessment and taxation as lands actively devoted to agricultural,

horticultural or agricultural and horticultural use in such tax year, that portion of any tax assessed for such year which is in excess of the tax which would have been assessed on such lands had such application been timely made and approved shall be abated.

SECTION 24. Section 14 of said chapter 61A, as so appearing, is hereby amended by striking the eighteenth paragraph and inserting in place thereof the following paragraph:-

The assignment shall be for the purpose of maintaining no less than 70 per cent of the land in use as forest land as defined in section 1 of chapter 61, as agricultural and horticultural land as defined in sections 1 and 2 of this chapter or as recreation land as defined in section 1 of chapter 61B, and in no case shall the assignee develop a greater proportion of the land than was proposed by the developer whose offer gave rise to the assignment. All land other than land that is to be developed shall then be bound by a permanent deed restriction that meets the requirements of chapter 184.

SECTION 25. Section 3 of chapter 61B of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out said section and inserting in place thereof the following section:-

Section 3. Eligibility of land for valuation, assessment and taxation under this chapter shall be determined separately for each tax year. Application therefor shall be submitted to the board of assessors of each city or town in which such land is situated not later than December first preceding each tax year for which such valuation, assessment and taxation is being sought. Application shall be made on a form prescribed by the commissioner of revenue and provided for the use of applicants by said board of assessors. Such form shall provide for the reporting of information pertinent to the provisions of this chapter and for certification by the applicant that

they will immediately, but no later than the December first next following, notify the board of assessors in writing of any subsequent circumstance within their control or knowledge which may cause a change in use of the land covered by such form. Any application submitted under this section and covering leased land shall be accompanied by a written statement signed by the lessee of their intent to use such land for the purposes set forth in said application. A certification by a landowner that the information set forth in their application is true may be prescribed by said commissioner to be in lieu of a sworn statement to that effect. An application so certified shall be considered as if made under oath and subject to the same penalties as provided by law for perjury. Upon allowance of any such application under section 6, classification as recreation land shall take effect on January first preceding the beginning of the tax year to which the application relates and taxation under this chapter shall commence with that tax year

SECTION 26. Section 4 of said chapter 61B, as so appearing, is hereby amended by striking out, in line 2, the words "October first and June thirtieth of the year", and inserting in place thereof the following:- December first and June thirtieth.

SECTION 27. Said chapter 61B, as so appearing, is hereby further amended by striking out section 5 and inserting in place thereof the following section:-

Section 5. In any tax year for which a city or town has undertaken and completed a program of revaluation of all property therein, applications by landowners for the valuation, assessment and taxation of their lands on the basis of being maintained in recreational use that are filed with the board of assessors not later than the last day for filing an application for abatement of the tax assessed on the new valuation shall be deemed to have been timely made for the tax year of the revaluation program, notwithstanding any provision of this chapter to the

contrary. If such application is approved and the lands qualify for valuation, assessment and taxation as lands maintained for recreational use in such tax year, the portion of any tax assessed for such year which is in excess of the tax which would have been assessed on such lands had such application been timely made and approved shall be abated.

SECTION 28. Section 6 of said chapter 61B, as so appearing, is hereby amended by striking out, in line 13, the words “a disallowance”, and inserting in place thereof the following words:- an allowance.

SECTION 29. Section 9 of said chapter 61B, as so appearing, is hereby amended by striking out the eighteenth paragraph and inserting in place thereof the following paragraph:-

The assignment shall be for the purpose of maintaining no less than 70 per cent of the land in use as forest land as defined in section 1 of chapter 61, as agricultural and horticultural land as defined in sections 1 and 2 of chapter 61A or as recreation land as defined in section 1 of this chapter, and in no case shall the assignee develop a greater proportion of the land than was proposed by the developer whose offer gave rise to the assignment. All land other than land that is to be developed shall then be bound by a permanent deed restriction that meets the requirements of chapter 184.

SECTION 30. Section 5 of chapter 65C of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following 2 subsections:-

(c) If the gross estate of a decedent includes real property devoted to use as a farm for farming purposes, the estate may elect to either value such property in accordance with section 2032A of the Code, in effect on January 1, 1985 or, if the gross estate of a decedent includes

real property devoted to use for closely held agricultural land, the value of such land shall be valued pursuant to the valuation set by the farmland valuation advisory commission established pursuant to section 11 of chapter 61A for the fiscal year of the most recent growing season. If a federal return is required to be filed the election under this subsection shall be consistent with the election made for federal estate tax purposes. All the substantive and procedural provisions of said section 2032A shall, insofar as pertinent and consistent, apply to the election made under this subsection. The commissioner shall promulgate regulations to carry out the provisions of this subsection and subsection (d).

(d) Land shall qualify for valuation as closely held agricultural land under subsection (c) of this section if it meets the definition of: forest land under chapter 61; land in agricultural or horticultural use under chapter 61A; land used for farming or agriculture pursuant to chapter 128, section 1A that is eligible pursuant to chapter 61B; provided that the land need not be classified by municipal assessors as forest land under chapter 61, land in agricultural or horticultural use under chapter 61A or recreational land under chapter 61B to qualify for valuation as closely held agricultural land under said subsection (c) if it otherwise meets the applicable definitions.

When land valued as closely held agricultural land under said subsection (c) no longer meets the definition of forest land under chapter 61, land in agricultural or horticultural use under chapter 61A, recreational land under chapter 61B that is used for farming or agriculture pursuant to chapter 128, section 1A, the land shall be subject to roll-back taxes, in the current tax year in which it is disqualified and in those years of the 9 immediately preceding tax years in which the land was so valued. Roll-back taxes shall be calculated: under section 7 of chapter 61 for forest land, under section 13 of chapter 61A for lands in agricultural or horticultural use under chapter

61A, or under section 8 of chapter 61B for land used for farming or agriculture pursuant to chapter 128, section 1A; and eligible as chapter 61B recreational land.

SECTION 31. Section 1 of chapter 94 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the definition of “rolls” the following definitions:-

“shared animal ownership agreement”, includes a cow share or goat share that is an undivided interest in a cow, goat, or dairy herd, created through a written contractual relationship between a shareholder and farmer that includes a legal bill of sale to the shareholder for an interest in a cow, goat, or dairy herd, and under which the shareholder agrees to pay or reimburse a farmer, or otherwise accept financial responsibility for the care and boarding of a cow, goat, or dairy herd, and under which the shareholder is entitled to receive a raw milk share from the cow, goat, or dairy herd.

“shareholder,” refers to an individual who owns an undivided interest in a cow, goat, or dairy herd created through a shared animal ownership agreement.

SECTION 32. Section 13 of said chapter 94, as so appearing, is hereby amended by inserting, in line 17, after the word "precluded", the following words:-

; and provided further, the provisions of this chapter shall be inapplicable to a shareholder, or any individual participating in a shared animal ownership agreement, who is using any product derived from such animal for personal consumption.

SECTION 33. Said chapter 94 of the General Laws, is hereby amended by inserting after section 13 the following section:-

Section 13 A ½. (a) Licensed raw milk farmers shall be allowed to deliver raw milk directly to the consumer, off-site from the farm, provided that the raw milk farmer has a direct, contractual relationship with the consumer. The raw milk farmer may contract with a third party for delivery provided that the raw milk farmer shall maintain the contractual relationship with the consumer. The raw milk farmer may deliver raw milk through a community supported agriculture (CSA) delivery system provided that the raw milk farmer shall maintain a contractual relationship with the consumer. Delivery may be made directly to the consumer's residence or to a pre-established receiving site; said sites shall not be in a retail setting with the exception of CSA delivery. In such instances, raw milk shall be kept separated from retail items for sale and will not be accessible to the general public.

(b) Raw milk farmers may sell raw milk from their farm stands even if not contiguous to their raw milk dairy and shall comply with section 3 of chapter 40 of the General Laws.

(c) The department of agricultural resources and the department of public health, acting jointly, shall adopt and promulgate reasonable rules and regulations governing the handling, packaging, storage, testing, and transportation of raw milk, provided that non-mechanical refrigeration shall be permitted.

SECTION 34. Said chapter 94 is hereby further amended by inserting after section 13E the following section:-

Section 13F. (a) Any farmer may participate in a shared animal ownership agreement if said farmer has no more than twelve lactating cows, goats, or cows and goats, and enters a shared animal ownership agreement through a written contractual relationship, provided that the contract shall include:

450 (1) the name and address of the farm, owner of the farm and name of the farmer;

451 (2) the name and address of the shareholder;

452 (3) a prominent warning statement that the raw milk is not pasteurized nor subject
453 to inspection by the department of public health nor the department of agricultural resources and
454 that the raw milk is subject to limited safety testing by the department of agricultural resources.

455 (b) A farmer participating in a shared animal ownership agreement shall keep a record of
456 when a shareholder receives a raw milk share and the farmer shall maintain such record for no
457 less than 60 days. A farmer participating in a shared animal ownership agreement shall only
458 distribute raw milk off of their farm.

459 (c) Any shareholder of a cow share or goat share within a cow, goat, or dairy herd may
460 receive raw milk on behalf of another shareholder within the same cow, goat, or dairy herd.

461 (d) No shareholder who receives raw milk through a shared animal ownership agreement
462 under this section shall sell or redistribute the raw milk to any person who does not own a raw
463 milk share within the same cow, goat, or dairy herd.

464 (e) The department of agricultural resources may issue rules and regulations pursuant to
465 the testing of raw milk distributed through a shared animal ownership agreement, provided that
466 the testing is done not more than once every two months, and provided that the testing
467 requirements are not overly burdensome to the farmer or cost-prohibitive.

468 SECTION 35. Chapter 128 of the General Laws, as appearing in the 2014 Official
469 Edition, is hereby amended by inserting after section 1A the following section:-

Section 1B. "Farmers Market" shall mean a public market or public market place located in a city or town that operates or occurs more than once per year for the primary purpose for Massachusetts farmers, from more than 1 farm, to vend food, crops and other farm related items that they have produced directly to the public.

A public market or public market place used by farmers that is established by a municipality under section 10 of chapter 40, or operates on department of conservation and recreation land by special permit under section 2F of chapter 132A, shall be deemed under this definition as a "Farmers Market".

SECTION 36. Section 46 of chapter 132 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out, in the third sentence of the first paragraph, the words "on June thirtieth of each year" and inserting in place thereof the following words:-

3 years following the anniversary date of the license granted to said applicant.

SECTION 37. Section 49 of said chapter 132, as so appearing, is hereby amended by striking out, in line 8, the words "annually on" and inserting in place thereof the following words:- 3 years following

SECTION 38. Chapter 132A of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after section 2D, the following 2 sections:-

Section 2E. (a) The commissioner of the department of conservation and recreation shall establish a program to provide for the use of designated lands in state-owned department parks and reservations throughout the commonwealth for community gardens. Lands so designated

shall be restricted to noncommercial horticultural uses of growing and harvesting food crops by inhabitants of local communities.

Community gardens shall be established as authorized by the commissioner, in open spaces that are suitable for such recreational gardening activities which are accessible to the public. Improvements to community garden lands shall to the extent as is practicable, preserve the natural state of such park and reservation areas.

Under the program, specific planting areas that are available within designated community garden sites shall be allotted for personal use on a seasonal basis by special permits issued to qualifying individual gardeners.

The department shall evaluate, identify and map community garden lands, and post relevant information about the sites and potential sites on the department's public website.

(b) The commissioner shall be authorized to license cities or towns to, establish, improve, maintain, operate and access local community gardens on designated department land. Said licenses shall be granted for no fee, upon such terms, restrictions and agreements, and for such period of years, not exceeding 10, as the commissioner may deem appropriate; provided, that the land licensed is utilized for the purposes of the department's community garden program consistent with the applicable rules and regulations of the department, and provided further, that under said licenses, cities and towns may be responsible for their costs and expenses, or portion thereof, to establish, improve, maintain and operate community gardens.

Cities and towns applying for a license to use department lands under the community garden program shall submit a plan related to said use, which shall be subject to approval by the commissioner.

(c) The commissioner shall be authorized to license qualified non-profit organizations to, establish, improve, maintain, operate and access community gardens on designated department land. Said licenses shall be granted, upon such terms, restrictions and agreements, and for such period of years, not exceeding 5, as the commissioner may deem appropriate; provided, that the land is used for the purposes of the department's community garden program consistent with the applicable rules and regulations of the department; and provided further, said licenses are granted based on a competitive application and proposal process. Notwithstanding, no license shall be granted to a non-profit organization for designated land unless, the commissioner has first provided the city or town where the available land is located, the option to be granted a license for such community garden site.

(d) Cities and towns, and non-profit organizations as part of the terms of said licenses, shall abide by the rules and regulations adopted by the department relating to the use and operation of community garden lands.

Licenses granted for community garden lands under this section shall be revocable at any time by the commissioner for the failure of recipient municipalities or non-profit organizations to comply with such license terms, restrictions and agreements.

In no event shall the granting of said licenses be construed to create in such municipalities or non-profit organizations, any title, right to acquire title, or ownership interest in licensed lands. The provisions of this subsection shall not prohibit the commissioner from leasing such lands to municipalities or qualified non-profit organizations under applicable law, for the purposes of the community garden program.

(e) The department or its employees shall not be liable for injuries or death to persons, or damage to property, resulting from any conduct related to the operation and use of community gardens on department lands, in the absence of willful, wanton, or reckless conduct on the part of said department or employees; provided, the community garden where such injury or death occurred, is enclosed by suitable fencing of not less than 4 feet in height and conspicuous signage warning of such limitation of liability is posted on or near such fence at garden entryways.

(f) The department shall adopt rules and regulations related to the establishment, use and operation of community gardens under the department's community garden program.

Section 2F. The commissioner of the department of conservation and recreation shall establish a program to provide for the seasonal use of areas in department parks and reservations by farmers for public market places. Such public markets shall be limited mainly to the vending of food and other agricultural products that are grown, raised or produced on Massachusetts farms.

The temporary establishment of said public markets as approved by the commissioner shall be at suitable land and parking areas accessible by the public and at appropriate times during daylight hours. Under the program, the commissioner shall be authorized to issue special seasonal permits to farmer vendors, which shall be restricted to specific approved public market sites and times, upon such terms and conditions as the commissioner may deem appropriate. As a condition of the issuance of a permit, a farmer vendor shall be required to comply with any laws and regulations applicable to the vending of food and agricultural products at said public markets.

Special permits issued by the commissioner shall be based on a competitive application and proposal process and be subject to revocation by the commissioner at any time.

The commissioner, in consultation with the commissioner of the department of agricultural resources, shall adopt rules and regulations for said public markets.

Farmers markets allowed pursuant to this section shall not be subject to the commercial limitations under section 2B of chapter 132A.

SECTION 39. Section 7B of chapter 242 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Any person who, (i) operates an off-highway or recreational vehicle in a manner that damages or destroys a field crop product or agricultural property situated on the land of another, or (ii) without the permission of the owner, willfully and intentionally removes, damages or destroys, a field crop product or property used primarily for agricultural purposes situated on the land of another, shall be liable to the owner of such product or property in tort.

SECTION 40. Subsection (f) of said section 7B of said chapter 242, as so appearing, is hereby amended by inserting after the words "husbandry, structure", in line 27, the words:- or device

SECTION 41. (a) Notwithstanding any general or special law to the contrary, the board of examiners of plumbers and gas fitters shall conduct a formal review of the rules and regulations of the Uniform State Plumbing Code under 248 CMR 10.00, for the purpose to consider amending said uniform code, to provide separate regulatory provisions specific to

farming buildings and operations. Amendments to said uniform code adopted by the board pursuant to this act shall be consistent with the provisions under subsection (c). For the purposes of this act, the term “farming” shall have the meaning as defined in section 1A of chapter 128, of the General Laws.

(b) There shall be established an advisory committee to make recommendations to the board of examiners of plumbers and gas fitters for amendments to the Uniform State Plumbing Code under 248 CMR 10.00, to adopt separate regulatory provisions specific to farming buildings and operations. The advisory committee shall consist of 7 members who shall be citizens of the commonwealth, one of whom shall be chair of the board of examiners of plumbers and gas fitters, or his designee, who shall serve as a co-chair of the advisory committee; one of whom shall be commissioner of the department of agricultural resources, who shall serve as a co-chair of the advisory committee; one of whom shall be the commissioner of the department of public health, or his designee; and 3 members to be appointed by the director of the division of professional licensure, one of whom shall be employed as municipal plumbing inspector, in rural or suburban towns for a period not less than 10 years, and who has no other financial interest related to the plumbing business and, one of whom shall be employed as municipal plumbing inspector, in suburban or urban cities for a period not less than 10 years, and who has no other financial interest related to the plumbing business; and 1 member to be appointed by the commissioner of the department of agricultural resources, who shall be a farmer and a member of the Massachusetts Farm Bureau Federation.

Recommendations by the advisory committee to amend said uniform code, shall be based on standards for proposed regulations that: (i) protect the public’s health and safety; (ii) preserve the environment; (iii) provide alternative plumbing practices and methods which are reasonable,

suitable and effective for farming buildings and operations, and (iv) promote farming development by reducing requirements that are unnecessarily excessive or costly, to achieve intended purposes in farming applications. The advisory committee, as a part of such recommendations, shall provide proposals of specific amendments to said uniform code.

The advisory committee shall submit its written recommendations to the board for review within 12 months after the effective date of this act. A copy of the recommendations shall be submitted to the senate and house chairs of the joint committee of environment, natural resources and agriculture.

(c) Within 6 months after the board receives the advisory committee's recommendations, the board shall complete its review of said uniform code and recommendations. Determinations by the board to amend said uniform code to adopt separate provisions specific to farming buildings and operations shall take into consideration the recommendations of the advisory committee. If the board decides to amend the regulations under said uniform code, then within 30 days of completing its review, the board shall provide notice under the respective sections 2 and 3 of chapter 30A.

If the board declines to adopt, in whole or part, the recommendations of the advisory committee the board shall make a report detailing the specific reasons for disallowing such recommendations. The board, within 30 days of completing its review, shall submit a copy of such report to the senate and house chairmen of the joint committee of environment, natural resources and agriculture.

SECTION 42. Notwithstanding any general or special law, rule or regulation to the contrary, the state board of building regulations and standards shall amend the state building

621 code to include rain sensor devices for newly installed or renovated residential outdoor landscape
622 sprinkler systems.

623 SECTION 43. Sections 18 to 30, inclusive, shall be effective for tax years beginning on
624 or after, January 1, 2017.

625 SECTION 44. The regulations required pursuant to section 33, 34, 38 and 42 shall be
626 promulgated not later than 270 days after the effective date of this act.