

SENATE No. 2258

The Commonwealth of Massachusetts

—————
In the One Hundred and Eighty-Ninth General Court
(2015-2016)
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SENATE, Thursday, April 28, 2016

The committee on Ways and Means, to whom was referred the Senate Bill to promote agriculture in the Commonwealth (Senate, No. 2171),-- reports, recommending that the same ought to pass with an amendment substituting a new draft entitled “An Act promoting agriculture in the Commonwealth” (Senate, No. 2258).

For the committee,
Karen E. Spilka

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

An Act promoting 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 out, in line 3, the figure “17” and inserting in
3 place thereof the following figure:- 18.

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

7 SECTION 3. Section 23 of said chapter 20, as so appearing, is hereby amended by
8 inserting after the word “by”, in line 22, the following words:- agricultural commissions or.

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

11 Section 2III. There shall be a fund to be known as the Agricultural Resolve and Security
12 Fund. The money in this fund shall be expended to foster agriculture, as defined in section 1A of
13 chapter 128, in the commonwealth and for furthering other purposes and programs of the

14 department of agricultural resources as set forth in any general or special law including, but not
15 limited to, agricultural education, support for sustainable agriculture and pollution prevention,
16 agricultural integrated pest management programs, agricultural land preservation, control of
17 animal diseases, emergency preparedness, agricultural innovation, the agricultural food safety
18 improvement program, the farm viability enhancement program and the urban agriculture
19 program.

20 The Agricultural Reserve and Security Fund may receive money from: (i) gifts, grants
21 and donations from public or private sources; (ii) federal reimbursements and grants-in-aid; (iii)
22 revenues retained equal to 10 per cent, but not exceeding \$400,000, of the annual pesticide
23 product registration fees collected pursuant to section 7 of chapter 132B; (iv) any appropriations
24 authorized by the general court specifically designated to be credited to the fund; and (v) any
25 interest earned from the fund. The state treasurer shall be the custodian of the fund and shall
26 receive, deposit and invest all money transmitted under this section to ensure the highest interest
27 rate available consistent with the safety of the fund. The books and records of the fund shall be
28 subject to an annual audit by the state auditor. The department of agricultural resources may
29 expend money in the fund and no expenditure from the fund shall cause it to be in deficiency at
30 the close of a fiscal year. The commissioner of agricultural resources shall report annually to the
31 house and senate committees on ways and means and the joint committee on environment,
32 natural resources and agriculture on income received into the fund and sources of that income,
33 any expenditure from the fund and the purpose of that expenditure and the fund's balance.
34 Money in the fund at the end of the fiscal year shall not revert to the General Fund and shall be
35 available for expenditure in the subsequent year and shall not be subject to section 5C of chapter
36 29.

37 SECTION 5. Said chapter 29 is hereby further amended by inserting after section 2RRRR
38 the following section:-

39 Section 2SSSS. (a) There shall be a fund to be known as the Massachusetts Veterans and
40 Warriors to Agriculture Program Fund. The fund shall be administered by the department of
41 agricultural resources. Notwithstanding any general or special law to the contrary, there shall be
42 credited to the fund any revenue from appropriations or other money authorized by the general
43 court and specifically designated to be credited to the fund and any gifts, grants, private
44 contributions or investment income earned by the fund's assets and all other sources. No
45 expenditure from the fund shall cause the fund to be in deficiency at the close of the fiscal year.
46 Money in the fund at the end of the fiscal year shall not revert to the General Fund and shall be
47 available for expenditure in the subsequent year and shall not be subject to section 5C of chapter
48 29.

49 (b) Funds may be expended to enhance the education, training, employment, income,
50 productivity and retention of veterans currently working or aspiring to work in the field of
51 agriculture in the commonwealth. The department of agricultural resources, in consultation with
52 the department of veteran services, shall establish, develop and implement the Massachusetts
53 Veterans and Warriors to Agriculture Program. Amounts credited to the fund shall be used,
54 without further appropriation, for the costs associated with administering and implementing the
55 program and may also be used to provide grants or loans on a competitive basis to public, private
56 and charitable entities to finance projects in furtherance of the Massachusetts Veterans and
57 Warriors to Agriculture Program. Expenditures from the fund for this purpose shall complement
58 and not replace existing local, state, private or federal funding for related training and
59 educational programs.

60 SECTION 6. Chapter 40 of the General Laws is hereby amended by inserting after
61 section 8K the following section:-

62 Section 8L. (a) For the purposes of this section, the terms “farming” and “agriculture”
63 shall have the same meaning as provided in section 1A of chapter 128.

64 (b) A city or town which accepts this section may establish a municipal agricultural
65 commission to promote and develop the agricultural resources of the city or town. A municipal
66 agricultural commission, unless otherwise restricted by law, may: (i) buy, hold, manage, license
67 or lease land for agricultural purposes; (ii) educate the public on agricultural issues; (iii) advocate
68 for farmers, farm businesses and farm interests; (iv) assist farmers in resolving municipal
69 problems or conflicts related to farms; (v) seek to coordinate agricultural related activities with
70 other governmental bodies or unofficial local groups or organizations that promote agriculture;
71 (vi) receive grants, gifts, bequests or devises of personal or monetary property of any nature and
72 interest in real property in accordance with this section; (vii) apply for, receive, expend and act
73 on behalf of the municipality in connection with federal and state grants or programs or private
74 grants related to local agriculture, with the approval of the mayor or city manager in a city or the
75 board of selectmen in a town; and (viii) advertise, prepare, print and distribute books, maps,
76 charts and pamphlets related to local agriculture that the municipal agricultural commission
77 deems necessary for its work.

78 (c) A municipal agricultural commission may conduct research and prepare agriculture
79 related plans, including a comprehensive local agricultural land plan which shall be, to the extent
80 possible, consistent with any current town master plan and regional area plans. The plan shall
81 show or identify: (i) agricultural land areas and facilities; (ii) matters which may be shown on a

82 tract index under section 33 of chapter 184; (iii) acquisitions of interest in land under this
83 section; (iv) municipal lands that are held as open space; (v) non-municipal land subject to legal
84 requirements or restrictions to protect that land or use it for open space, conservation, recreation
85 or agriculture; (vi) land that should be retained as a public necessity for agricultural use; and (vii)
86 any other information that the commission determines to be relevant to local agricultural land
87 use. The commission may amend the plan whenever necessary.

88 (d) The commission may appoint a chair, clerks, consultants and other employees and
89 may contract for materials and services as it may require, subject to appropriation by the
90 municipality.

91 (e) The municipal agricultural commission shall keep accurate records of its meetings and
92 actions and shall file an annual report with the clerk of the municipality. The commission's
93 annual report shall be posted on the municipality's public website and, in a town, shall be printed
94 in the annual town report for that year.

95 (f) A municipal agricultural commission shall consist of not less than 3 nor more than 7
96 members who shall be residents of the municipality. A majority of members shall be farmers or
97 employed in an agriculture related field. In the event that farmers or those employed in
98 agriculture are unavailable to serve on the commission, then the commission shall include a
99 majority of members with knowledge and experience in agricultural practices or knowledge of
100 related agricultural business. Each member of the commission shall serve for a term of 3 years;
101 provided, however, that the initial members appointed under this section shall serve for terms of
102 1, 2 or 3 years and the terms shall be arranged by the appointing authority so that the terms of
103 approximately 1/3 of the commission's members shall expire each year.

104 In a city, the members of the municipal agricultural commission shall be appointed by the
105 mayor, unless otherwise provided by the city's charter; provided, however, that in a city having a
106 Plan D or Plan E charter, the appointments shall be made by the city manager, unless otherwise
107 provided by the city's charter. In a town, the members of the municipal agricultural commission
108 shall be appointed after a public hearing by the board of selectmen; provided, however, that in a
109 town having a manager form of government the appointments shall be made by the town
110 manager subject to the approval of the board of selectmen.

111 A member of a municipal agricultural commission may be removed for cause by the
112 appointing authority after a public hearing, if such hearing is requested by the member. A
113 vacancy created by a member being removed for cause shall be filled by the appointing authority
114 for the unexpired term in the same manner as the original appointment.

115 (g) A municipal agricultural commission may receive gifts, bequests or devises of
116 personal property or interests in real property as described in this subsection in the name of the
117 city or town, subject to the approval of the city council or board of selectmen. The municipal
118 agricultural commission may purchase interests in the land only with funds available to the
119 commission. A city council or a town meeting may raise or transfer funds so that the municipal
120 agricultural commission may acquire in the name of the city or town by option, purchase, lease
121 or otherwise the fee in the land or water rights, conservation or agricultural restrictions,
122 easements or other contractual rights as may be necessary to acquire, maintain, improve, protect,
123 limit the future use of or conserve and properly utilize open spaces in land and water areas within
124 the city or town. The municipal agricultural commission shall manage and control the interests in
125 land acquired under this subsection. The commission shall not take or obtain land by eminent
126 domain.

127 The commission shall adopt rules and regulations governing the use of land and water
128 under its control and prescribe civil penalties, not exceeding a fine of \$100, for any violation
129 thereof.

130 (h) A municipality may appropriate money to an agricultural preservation fund of which
131 the treasurer of the municipality shall be the custodian. The treasurer shall receive, deposit or
132 invest the funds in savings banks, trust companies incorporated under the laws of the
133 commonwealth, banking companies incorporated under the laws of the commonwealth which are
134 members of the Federal Deposit Insurance Corporation or national banks or invest the funds in:
135 (i) paid-up-shares and accounts of and in cooperative banks; (ii) shares of savings and loan
136 associations; or (iii) shares of federal savings and loan associations doing business in the
137 commonwealth. Any income derived from deposits or investments under this subsection shall be
138 credited to the fund. Money in said fund may be expended by the commission for any purpose
139 authorized by this section.

140 SECTION 7. Chapter 61A of the General Laws is hereby amended by striking out section
141 4, as appearing in the 2014 Official Edition, and inserting in place thereof the following section:-

142 Section 4. (a) For general property tax purposes, the value of land that is not less than 5
143 acres in area and is actively devoted to agricultural or horticultural or agricultural and
144 horticultural uses during the tax year in issue, and has been so devoted for at least the 2
145 immediately preceding tax years, shall, upon application by the owner of the land and approval
146 of that application, be the value of that land for agricultural or horticultural purposes.

147 (b) Land qualifying under subsection (a) shall include: (i) contiguous land under the same
148 ownership that is not committed to residential, industrial or commercial use and which is covered

149 by an application submitted pursuant to section 6; and (ii) noncontiguous land under the same
150 ownership that is not committed to residential, industrial or commercial use and which is covered
151 by an application submitted pursuant to said section 6 if that noncontiguous land is located
152 within a ½ mile of any boundary of other land under the same ownership and it is utilized
153 together with that other land for a unified agricultural, horticultural, agricultural and horticultural
154 or economic purpose. Land shall be deemed contiguous if it is separated from other land under
155 the same ownership by only a public or private way, waterway or an easement for water supply.

156 (c) The acreage of land, which is considered contiguous or non-contiguous for purposes
157 of this chapter, shall not exceed 100 per cent of the acreage which is actively devoted to
158 agricultural, horticultural or agricultural and horticultural uses.

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

161 SECTION 8. Said chapter 61A is hereby further amended by striking out sections 5 and
162 6, as so appearing, and inserting in place thereof the following 2 sections:-

163 Section 5. When land, including any contiguous and noncontiguous land, being used for
164 agricultural, horticultural or agricultural and horticultural purposes is under 1 ownership and is
165 located in more than 1 city or town, compliance with the 5 acre minimum area requirements of
166 section 4 shall be determined on the basis of the entire area of the land and not on the basis of the
167 land area which falls within the bounds of a particular city or town.

168 Section 6. The eligibility of land for valuation, assessment and taxation pursuant to
169 section 4 shall be determined separately for each tax year. An application for eligibility shall be
170 submitted to the board of assessors in the city or town in which the land is situated by not later

171 than December 1 preceding each tax year for which the valuation, assessment and taxation are
172 being sought. The application may not be withdrawn after it is submitted. An application shall
173 be made on a form prescribed by the commissioner of revenue and provided to applicants by the
174 board of assessors. The form shall provide for the reporting of information pertinent to this
175 chapter and of Article XCIX of the Articles of Amendment to the Constitution of the
176 Commonwealth and for certification by the applicant that the applicant will immediately, but not
177 later than December 1 of the following year, notify the board of assessors in writing of any
178 subsequently developing circumstance within the applicant's control or knowledge which may
179 cause a change in use of the land covered by the form. An application submitted under this
180 section for leased land shall be accompanied by a written statement of the lessee's intent to use
181 the land for the purposes in the application and shall be signed by the lessee. The landowner shall
182 certify, in a manner prescribed by the commissioner, that under the penalties of perjury the
183 information in the landowner's application is true. If the application is allowed under section 9,
184 then the classification of the land as actively devoted to agricultural, horticultural or agricultural
185 and horticultural use shall take effect on January 1 preceding the beginning of the tax year to
186 which the application relates and taxation under this chapter shall commence with that tax year.

187 SECTION 9. Section 7 of said chapter 61A, as so appearing, is hereby amended by
188 striking out, in line 3, the words "October first and June thirtieth of the year" and inserting in
189 place thereof the following words:- December 1 and June 30.

190 SECTION 10. Said chapter 61A, as so appearing, is hereby further amended by striking
191 out section 8, as so appearing, and inserting in place thereof the following section:-

192 Section 8. Notwithstanding any provision of this chapter to the contrary, in any tax year
193 for which a city or town has undertaken and completed a program of revaluation of all property
194 in that city or town, applications by landowners for the valuation, assessment and taxation of
195 their lands on the basis of being actively devoted to agricultural or horticultural or agricultural
196 and horticultural use that are filed with the board of assessors by not later than the last day for
197 filing an application for abatement of the tax assessed on the new valuation shall be deemed to
198 have been timely made for the tax year of the revaluation program. If the application is approved
199 and the lands qualify for valuation, assessment and taxation as lands actively devoted to
200 agricultural, horticultural or agricultural and horticultural use in that tax year, then the portion of
201 any tax assessed for that year which is in excess of the tax that would have been assessed on the
202 lands, if the application had been timely made and approved, shall be abated.

203 SECTION 11. Section 14 of said chapter 61A, as so appearing, is hereby amended by
204 striking out the eighteenth paragraph and inserting in place thereof the following paragraph:-

205 The assignment shall be for the purpose of maintaining not less than 70 per cent of the
206 land in use as forest land as defined in section 1 of chapter 61, as agricultural and horticultural
207 land as defined in sections 1 and 2 of this chapter or as recreational land as defined in section 1
208 of chapter 61B, and in no case shall the assignee develop a greater proportion of the land than
209 was proposed by the developer whose offer gave rise to the assignment. All land other than land
210 that is to be developed shall then be bound by a permanent deed restriction that meets the
211 requirements of chapter 184.

212 SECTION 12. Chapter 61B of the General Laws is hereby amended by striking out
213 section 3, as so appearing, and inserting in place thereof the following section:-

214 Section 3. The eligibility of land for valuation, assessment and taxation under this chapter
215 shall be determined separately for each tax year. An application for eligibility shall be submitted
216 to the board of assessors in the city or town in which the land is situated by not later than
217 December 1 preceding each tax year for which the valuation, assessment and taxation is being
218 sought. The application shall be made on a form prescribed by the commissioner of revenue and
219 provided to applicants by the board of assessors. The form shall provide for the reporting of
220 information pertinent to this chapter and for certification by the applicant that the applicant will
221 immediately, but not later than the December 1 of the following year, notify the board of
222 assessors in writing of any subsequent circumstance within the applicant's control or knowledge
223 which may cause a change in use of the land covered by the form. An application submitted
224 under this section for leased land shall be accompanied by a written statement of the lessee's
225 intent to use the land for the purposes in the application and shall be signed by the lessee. The
226 landowner shall certify, in a manner prescribed by the commissioner, that under the penalties of
227 perjury the information in the landowner's application is true. If the application is allowed under
228 section 6, then the classification of the land as recreational land shall take effect on January 1
229 preceding the beginning of the tax year to which the application relates and taxation under this
230 chapter shall commence with that tax year.

231 SECTION 13. Section 4 of said chapter 61B, as so appearing, is hereby amended by
232 striking out, in lines 2 and 3, the words "October first and June thirtieth of the year" and inserting
233 in place thereof the following words:- December 1 and June 30.

234 SECTION 14. Said chapter 61B is hereby further amended by striking out section 5, as so
235 appearing, and inserting in place thereof the following section:-

236 Section 5. Notwithstanding any provision of this chapter to the contrary, in any tax year
237 for which a city or town has undertaken and completed a program of revaluation of all property
238 in that city or town, applications by landowners for the valuation, assessment and taxation of
239 their lands on the basis of being maintained in recreational use that are filed with the board of
240 assessors by not later than the last day for filing an application for abatement of the tax assessed
241 on the new valuation shall be deemed to have been timely made for the tax year of the
242 revaluation program. If the application is approved and the lands qualify for valuation,
243 assessment and taxation as lands actively devoted to agricultural, horticultural or agricultural and
244 horticultural use in that tax year, then the portion of any tax assessed for that year which is in
245 excess of the tax which would have been assessed on the lands, if the application been timely
246 made and approved, shall be abated.

247 SECTION 15. Section 6 of said chapter 61B, as so appearing, is hereby amended by
248 striking out, in line 13, the words “a disallowance”, and inserting in place thereof the following
249 words:- an allowance.

250 SECTION 16. Section 9 of said chapter 61B, as so appearing, is hereby amended by
251 striking out the eighteenth paragraph and inserting in place thereof the following paragraph:-

252 The assignment shall be for the purpose of maintaining not less than 70 per cent of the
253 land in use as forest land as defined in section 1 of chapter 61, as agricultural and horticultural
254 land as described in sections 1 and 2 of chapter 61A or as recreation land as described in section
255 1 of this chapter and the assignee shall not develop a greater proportion of the land than was
256 proposed by the developer whose offer gave rise to the assignment. All land other than land that

257 is to be developed shall then be bound by a permanent deed restriction that meets the
258 requirements of chapter 184.

259 SECTION 17. Chapter 94 of the General Laws is hereby amended by inserting after
260 section 13E the following section:-

261 Section 13F. (a) A dairy farmer manufacturing raw milk for human consumption shall be
262 licensed under section 16A of chapter 94 and section 5 of chapter 94A. A licensed raw milk
263 farmer may deliver raw milk directly to a consumer, off-site from the farm, if the raw milk
264 farmer has a direct, contractual relationship with the consumer. The raw milk farmer may
265 contract with a third party for such delivery; provided, however, that the raw milk farmer shall
266 maintain the contractual relationship with the consumer. The raw milk farmer may deliver raw
267 milk through a community supported agriculture, or CSA, delivery system; provided, however,
268 that the raw milk farmer shall maintain a contractual relationship with the consumer. Delivery
269 may be made directly to the consumer's residence or to a preestablished receiving site. A
270 receiving site shall not be in a retail setting with the exception of a CSA delivery. In such
271 instances, raw milk shall be kept separate from retail items for sale and shall not be accessible to
272 the general public.

273 (b) A raw milk farmer may sell raw milk from the farmer's farm stands even if not
274 contiguous to the farmer's raw milk dairy; provided however, the farmer shall comply with
275 section 3 of chapter 40A .

276 (c) The department of agricultural resources and the department of public health, acting
277 jointly, shall adopt and promulgate rules and regulations governing the handling, packaging,
278 storage, testing and transportation of raw milk; provided, however, that any delivery vehicle

279 transporting raw milk shall comply with the inspection requirements set forth in sections 33, 35
280 and 40.

281 (d) The label on any raw milk sold pursuant to this section shall contain: (i) the identity
282 of the farm where the raw milk was packaged, including the licensee's name, address and license
283 number; and (ii) the following warning: "Raw milk is not pasteurized. Pasteurization destroys
284 organisms that may be harmful to health."

285 SECTION 18. Section 1A of chapter 128 of the General Laws, as appearing in the 2014
286 Official Edition, is hereby amended by adding the following definition:-

287 "Farmers' market", a building, structure, or public market as described in section 10 of
288 chapter 40 that is used by 2 or more farmers for the direct sale of food crops and other farm
289 related items produced in the commonwealth that operates or occurs more than once per year;
290 provided, however, that a farmers' market shall not be prohibited from selling other products
291 produced inside or outside the commonwealth.

292 SECTION 19. Section 46 of chapter 132 of the General Laws, as so appearing, is hereby
293 amended by striking out, in lines 12 and 13, the words "on June thirtieth of each year" and
294 inserting in place thereof the following words:- 3 years after the date the license was issued to
295 the timber harvester.

296 SECTION 20. Section 49 of said chapter 132, as so appearing, is hereby amended by
297 striking out, in line 8, the words "annually on the anniversary date of the license granted for said"
298 and inserting in place thereof the following words:- 3 years after the date the license was issued
299 to the.

300 SECTION 21. Section 50 of said chapter 132, as so appearing, is hereby amended by
301 striking out, in lines 7 and 8, the words “Massachusetts Association of Professional Foresters”
302 and inserting in place thereof the following words:- Massachusetts Forest Alliance Limited.

303 SECTION 22. Chapter 132A of the General Laws is hereby amended by inserting after
304 section 2D the following 2 sections:-

305 Section 2E. (a) The commissioner of conservation and recreation shall develop a
306 program to promote the use of designated land in state-owned parks and reservations throughout
307 the commonwealth for community gardens. Lands so designated shall be restricted to
308 noncommercial, horticultural uses of growing and harvesting food crops by residents of local
309 communities.

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

314 Under the program, specific planting areas available within designated community
315 garden sites shall be allotted for personal use on a seasonal basis by permits issued to qualifying
316 residents of the community.

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

319 (b) The commissioner may license cities and towns to establish, improve, maintain,
320 operate and access local community gardens on designated department land. The licenses shall

321 be granted upon such terms, restrictions and agreements and for such period of years, not
322 exceeding 10 years, as the commissioner deems appropriate; provided, however, that the land
323 licensed shall be utilized for the department's community garden program and such use shall be
324 consistent with the applicable rules and regulations of the department; and provided further, that
325 under any such license, a city or town may be responsible for the costs and expenses, or portion
326 thereof, to establish, improve, maintain and operate community gardens.

327 A city or town applying for a license to use department lands under the community
328 garden program shall submit a plan related to such use and the plan shall be subject to approval
329 by the commissioner.

330 (c) The commissioner may license qualified nonprofit organizations to establish,
331 improve, maintain, operate and access community gardens on designated department land. The
332 licenses shall be granted upon such terms, restrictions and agreements and for such period of
333 years, not exceeding 5 years, as the commissioner deems appropriate; provided, however, that
334 the land shall be used for the department's community garden program and such use shall be
335 consistent with the applicable rules and regulations of the department. Licenses shall be granted
336 based on a competitive application and proposal process. A license shall not be granted to a
337 nonprofit organization for designated land unless the commissioner has first provided the city or
338 town where the available land is located with the option to be granted a license for such
339 community garden site.

340 (d) Cities and towns and nonprofit organizations, as part of the terms of such licenses,
341 shall abide by the rules and regulations adopted by the department relating to the use and
342 operation of community garden lands.

343 Licenses granted for community garden lands under this section shall be revocable at any
344 time by the commissioner for the failure of a recipient city or town or nonprofit organizations to
345 comply with the license terms, restrictions and agreements.

346 The granting of a license under this section shall not be construed to confer on the city or
347 the nonprofit organization any title, right to acquire title or ownership interest in licensed lands.
348 This subsection shall not prohibit the commissioner from leasing such lands to municipalities or
349 qualified nonprofit organizations under applicable law for the purposes of the community garden
350 program.

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

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

359 Section 2F. The commissioner of conservation and recreation shall develop a program to
360 promote the seasonal use of areas in state-owned parks and reservations for farmers' markets as
361 defined in section 1A of chapter 128. The farmers' market shall promote food and other
362 agricultural products that are grown, raised or produced on farms in the commonwealth.

363 The temporary establishment of a farmers' market as approved by the commissioner shall
364 be at suitable land and parking areas accessible by the public and at appropriate times during

365 daylight hours. Under the program, the commissioner may issue special seasonal permits to
366 farmer vendors, which shall be restricted to specific approved public market sites and times, and
367 shall be upon such terms and conditions as the commissioner may deem appropriate. As a
368 condition of the issuance of a permit, a farmer vendor shall be required to comply with any laws
369 and regulations applicable to the vending of food and agricultural products at the farmers'
370 market. A farmer vendor shall not engage in the preparation or sale of value-added agriculture
371 products or food without a license and inspection by the local board of health pursuant to state
372 and federal food safety regulations.

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

375 The commissioner, in consultation with the commissioner of agricultural resources, shall
376 adopt rules and regulations for conducting farmers' markets.

377 Farmers markets allowed pursuant to this section shall not be subject to the commercial
378 limitations in section 2B.

379 SECTION 23. Chapter 138 of the General Laws, as appearing in the 2014 Official
380 Edition, is hereby amended by striking out section 15F and inserting in place thereof the
381 following section:-

382 Section 15F. Notwithstanding any other provision of this chapter 138, in any city or town
383 wherein the granting of licenses to sell wines and malt beverages is authorized under this
384 chapter, the local licensing authority may issue to an applicant authorized to operate a farmer-
385 winery under section 19B a special license for the sale of wine produced by or for the licensee or
386 to an applicant authorized to operate a farmer-brewery under section 19C a special license for the

387 sale of malt beverages produced by or for the licensee and, in any city or town wherein the
388 granting of licenses to sell all alcoholic beverages is authorized under this chapter, the local
389 licensing authority may issue to an applicant authorized to operate a farmer-distillery under
390 section 19E a special license for the sale of distilled spirits produced by or for the licensee, in
391 sealed containers, for off-premises consumption at an indoor or outdoor agricultural event.

392 All sales of alcoholic beverages shall be conducted by the licensee or by an agent,
393 representative or solicitor of the licensee to customers who are at least 21 years of age. A
394 licensee under this section may provide, without charge, samples of its alcoholic beverages to
395 prospective customers at an indoor or outdoor agricultural event. All samples shall be served by
396 the licensee or by an agent, representative or solicitor of the licensee to individuals who are at
397 least 21 years of age and all samples shall be consumed in the presence of such licensee or in the
398 presence of an agent, representative or solicitor of the licensee; provided, however, that no
399 sample of wine shall exceed 1 ounce, no sample of malt beverages shall exceed 2 ounces and no
400 sample of distilled spirits shall exceed 1/4 ounce; and provided further that not more than 5
401 samples shall be served to an individual prospective customer. For the purposes of this section,
402 “agricultural event” shall be limited to those events certified by the department of agricultural
403 resources as set forth in this section.

404 An applicant for a special license under this section shall first submit a plan to the
405 department of agricultural resources that shall demonstrate that the event is an agricultural event.
406 The plan shall include a description of the event, the date, time and location of the event, a copy
407 of the operational guidelines or rules for the event, written proof that the prospective licensee has
408 been approved as a vendor at the event, including the name and contact information of the on-

409 site manager, and a plan depicting the premises and the specific location where the license shall
410 be exercised.

411 Upon review of the plan, the department may certify that the event is an agricultural
412 event; provided, however, that in making that determination, the department shall consider the
413 following factors: (i) operation as a farmers' market or agricultural fair approved or inspected by
414 the department; (ii) frequency and regularity of the event, including dates, times and locations;
415 (iii) number of vendors; (iv) terms of vendor agreements; (v) presence of an on-site manager;
416 (vi) training of the on-site manager; (vii) operational guidelines or rules which shall include
417 vendor eligibility and produce source; (viii) focus of event on local agricultural products grown
418 or produced within the market area; (ix) types of shows or exhibits, including those described in
419 clause (f) of the first paragraph of section 2 of chapter 128; and (x) sponsorship or operation by
420 an agricultural or horticultural society organized under the laws of the commonwealth, or by a
421 local grange organization or association which has a primary purpose of promoting agriculture
422 and its allied industries. The department of agricultural resources may promulgate rules and
423 regulations necessary for the operation, oversight, approval and inspection of agricultural events
424 under this section.

425 An applicant for a special license under this section shall file with the local licensing
426 authority along with its application proof of certification from the department of agricultural
427 resources that the event is an agricultural event. A special license under this section shall
428 designate the specific premises and the dates and times covered. A special license may be
429 granted for an indoor or outdoor agricultural event which takes place on multiple dates or times
430 during a single calendar year but no special license shall be granted for an agricultural event that
431 will not take place within 1 calendar year. The special license shall be conspicuously displayed at

432 the licensed premises. A copy of a special license granted by the local licensing authority shall
433 be submitted by the authority to the commission at least 7 days before the date the agricultural
434 event is first scheduled to begin. The local licensing authority may charge a fee for each special
435 license granted but such fee shall not exceed \$50. A special license granted under this section
436 shall be nontransferable to any other person, corporation or organization and shall be clearly
437 marked “nontransferable” on its face.

438 The commission may promulgate rules and regulations as it deems appropriate to
439 effectuate this section.

440 A special license under this section may be granted by the local licensing authorities for a
441 portion of premises that are licensed under section 12; provided, however, that: (i) the holder of
442 the special license shall document the legal basis for use of the section 12 licensed premises; (ii)
443 the area in which the special license is to be approved shall be physically delineated from the
444 area remaining under the control of the section 12 license holder; (iii) the holder of the special
445 license shall be solely liable for all activities that arise out of the special license; and (iv) the
446 holder of the special license shall not pay any consideration, directly or indirectly, to the section
447 12 license holder for the access to or use of the section 12 licensee's premises.

448 SECTION 24. Section 7B of chapter 242 of the General Laws, as so appearing, is hereby
449 amended by striking out subsection (a) and inserting in place thereof the following subsection:-

450 (a) Any person who: (i) operates an off-highway or recreational vehicle in a manner that
451 damages or destroys a field crop product or agricultural property situated on the land of another;
452 or (ii) without the permission of the owner, willfully and intentionally removes, damages or

453 destroys a field crop product or property used primarily for agricultural purposes situated on the
454 land of another shall be liable to the owner of such product or property in tort.

455 SECTION 25. Said section 7B of said chapter 242, as so appearing, is hereby further
456 amended by striking out, in line 25, the words “Section 1A of chapter 128” and inserting in place
457 thereof the following words:- section 1A of chapter 128 or any forest product produced on land
458 under a certified forest management plan.

459 SECTION 26. Said section 7B of said chapter 242, as so appearing, is hereby further
460 amended by inserting after the word “structure”, in line 27, the following words:- or device.

461 SECTION 27. (a) Notwithstanding any general or special law to the contrary, the board
462 of state examiners of plumbers and gas fitters shall conduct a review of the rules and regulations
463 of the Uniform State Plumbing Code under 248 CMR 10.00 to consider amending the code, to
464 provide separate regulatory provisions specific to buildings and operations related to farming as
465 defined in section 1A of chapter 128 of the General Laws. Amendments to the code adopted by
466 the board pursuant to this act shall be consistent with subsection (c).

467 (b) There shall be established an advisory committee to make recommendations to the
468 board of state examiners of plumbers and gas fitters for amendments to the Uniform State
469 Plumbing Code under 248 CMR 10.00 to adopt separate regulatory provisions specific to
470 buildings and operations related to farming. The advisory committee shall consist of: the
471 chairperson of the board of state examiners of plumbers and gas fitters, or designee, who shall
472 serve as a co-chair of the advisory committee; the commissioner of agricultural resources, or
473 designee, who shall serve as a co-chair of the advisory committee; the commissioner of public
474 health or designee; the chair of the Northeast Regional Coalition of the International Code

475 Council or designee; 1 person shall be appointed by the governor who shall be employed as a
476 municipal plumbing inspector for at least 10 years and who has no other financial interest related
477 to the plumbing business; and 2 person to be appointed by the commissioner of agricultural
478 resources, of whom 1 shall be a farmer and a member of the Massachusetts Farm Bureau
479 Federation and 1 shall be an organic farmer and a member of the Northeast Organic Farming
480 Association/Massachusetts Chapter.

481 Recommendations by the advisory committee to amend the code shall be based on
482 standards that: (i) protect the public's health and safety; (ii) preserve the environment; (iii)
483 provide alternative plumbing practices and methods which are reasonable, suitable and effective
484 for farming buildings and operations; and (iv) promote farming development by reducing
485 requirements that are unnecessarily excessive or costly, to achieve intended purposes in farming
486 applications. The advisory committee, as a part of such recommendations, shall provide
487 proposals for specific amendments to the code.

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

492 (c) Within 6 months after the board receives the advisory committee's recommendations,
493 the board shall complete its review of the code and any recommendations. Determinations by the
494 board to amend the code to adopt separate provisions specific to farming buildings and
495 operations shall take into consideration the recommendations of the advisory committee. If the

496 board decides to amend the regulations under the code, it shall, within 30 days of completing its
497 review, provide notice under sections 2 and 3 of chapter 30A.

498 If the board rejects, in whole or part, the recommendations of the advisory committee, the
499 board shall submit a report within 30 days after completing its review. The report shall detail the
500 specific reasons for rejecting the advisory committee's recommendations to the senate and house
501 chairs of the joint committee of environment, natural resources and agriculture.

502 SECTION 28. (a) Notwithstanding any general or special law to the contrary, the
503 secretary of energy and environmental affairs, in consultation with the farmland protection and
504 viability advisory commission established into subsection (b), shall develop a farmland action
505 plan. The plan shall set forth the commonwealth's goals, priorities and recommended actions for
506 farmland protection and access to reflect the importance of farmlands of the commonwealth to its
507 citizens who derive their livelihoods from farming and the importance of protected farmland for
508 ecosystem health and biodiversity.

509 The plan shall include, but not be limited to: (i) an inventory of state land in active
510 agricultural production or that is potentially suitable for farming; (ii) a review of state agency
511 policies related to the use or lease of land for farming and recommendations related to state
512 policies for the use and lease of state-owned land for farming; (iii) an analysis of recent trends
513 and potential threats related to farmland loss and conversion and its recommendations, including
514 resources necessary to improve state data collection for farmland trends and to establish a system
515 for tracking acres of farmland in production over time; (iv) recommended statutory, regulatory or
516 policy revisions to the agricultural preservation restriction program to support the long-term
517 economic viability of protected farms, to address housing needs and to ensure the program is

518 managed in a transparent and consistent manner and with policies that keep pace with changes in
519 agriculture and associated markets; (v) an analysis of farmland enrolled in a program under
520 chapter 61A of the General Laws and recommendations for improving enrollment of farmland in
521 the program; and (vi) measurable statewide goals and benchmarks related to farmland
522 conversion, farmland protection and farmland access and recommendations for state policy
523 changes and program funding levels to meet these goals and benchmarks. The plan may include
524 maps, illustrations and other media and shall be based on best available science and best
525 management practices.

526 (b) There shall be a farmland protection and viability advisory commission to assist the
527 secretary in developing the farmland action plan. The commission shall consist of: 2 members of
528 the senate or a designee, 1 of whom shall be appointed by the minority leader; 2 members of the
529 house of representatives or a designee, 1 of whom shall be appointed by the minority leader; 1
530 member of the board of food and agriculture, as elected by the board of food and agriculture for
531 this purpose who shall chair the commission; the commissioner of agricultural resources or a
532 designee; a representative of the Center for Agriculture, Food and the Environment at the
533 University of Massachusetts at Amherst; a representative of the Massachusetts Farm Bureau
534 Federation; a representative of The Trustees of Reservations; a representative of the American
535 Farmland Trust; and 3 persons to be appointed by the governor, 1 of whom shall be a farmer, 1
536 of whom shall be a representative of an urban agriculture organization and 1 of whom shall be a
537 representative of a farmland access organization.

538 The advisory commission shall meet at least quarterly and otherwise at the discretion of
539 the chair. The commission shall make recommendations to the secretary for the proper

540 management and development of the farmland action plan. The secretary shall consider the
541 recommendations of the commission.

542 (c) The farmland action plan shall be delivered to the joint committee on environment,
543 natural resources and agriculture not later than July 1, 2017. The executive office of energy and
544 environmental affairs and the department of agricultural resources shall provide technical
545 support to the commission.

546 (d) The secretary shall develop and implement a public outreach and information
547 program to provide information to the public regarding the farmland action plan.

548 SECTION 29. Notwithstanding any general or special law to the contrary, the state board
549 of building regulations and standards shall amend the state building code to include rain sensor
550 devices for newly-installed or renovated residential outdoor landscape sprinkler systems.

551 SECTION 30. A municipal agricultural commission duly formed prior to the effective
552 date of this act shall have the authority as provided in section 8L of chapter 40 of the General
553 Laws without further action to accept said section 8L of said chapter 40.

554 SECTION 31. Sections 7 to 16, inclusive, shall be effective for tax years beginning on or
555 after January 1, 2017.

556 SECTION 32. The regulations required to be promulgated pursuant to sections 17, 22 and
557 29 shall be completed not later than 270 days after the effective date of this act.