

SENATE No. 2286

Senate, May 5, 2016 -- Text of the Senate Bill promoting agriculture in the Commonwealth (Senate, No. 2286) (being the text of Senate, No. 2258, printed as amended)

The Commonwealth of Massachusetts

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 2A. Said section 6C of said chapter 20, as so appearing, is hereby further
8 amended by inserting after the word “assistance”, in line 50, the following words:- ; 1 of whom
9 shall represent an organization or entity engaged in hydroponic farming or in research related to
10 hydroponic farming; 1 of whom shall represent an organization or entity engaged in aquaponic
11 farming or in research related to aquaponic farming.

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

14 SECTION 4. Chapter 29 of the General Laws is hereby amended by striking out section
15 2III, as so appearing, and inserting in place thereof the following section:-

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

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

37 natural resources and agriculture on income received into the fund and sources of that income,
38 any expenditure from the fund and the purpose of that expenditure and the fund's balance.
39 Money in the fund at the end of the fiscal year shall not revert to the General Fund and shall be
40 available for expenditure in the subsequent year and shall not be subject to section 5C of chapter
41 29.

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

44 Section 2SSSS. (a) There shall be a fund to be known as the Massachusetts Veterans and
45 Warriors to Agriculture Program Fund. The fund shall be administered by the department of
46 agricultural resources. Notwithstanding any general or special law to the contrary, there shall be
47 credited to the fund any revenue from appropriations or other money authorized by the general
48 court and specifically designated to be credited to the fund and any gifts, grants, private
49 contributions or investment income earned by the fund's assets and all other sources. No
50 expenditure from the fund shall cause the fund to be in deficiency at the close of the fiscal year.
51 Money in the fund at the end of the fiscal year shall not revert to the General Fund and shall be
52 available for expenditure in the subsequent year and shall not be subject to section 5C of chapter
53 29.

54 (b) Funds may be expended to enhance the education, training, employment, income,
55 productivity and retention of veterans currently working or aspiring to work in the field of
56 agriculture in the commonwealth. The department of agricultural resources, in consultation with
57 the department of veteran services, shall establish, develop and implement the Massachusetts
58 Veterans and Warriors to Agriculture Program. Amounts credited to the fund shall be used,

59 without further appropriation, for the costs associated with administering and implementing the
60 program and may also be used to provide grants or loans on a competitive basis to public, private
61 and charitable entities to finance projects in furtherance of the Massachusetts Veterans and
62 Warriors to Agriculture Program. Expenditures from the fund for this purpose shall complement
63 and not replace existing local, state, private or federal funding for related training and
64 educational programs.

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

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

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

81 charts and pamphlets related to local agriculture that the municipal agricultural commission
82 deems necessary for its work.

83 (c) A municipal agricultural commission may conduct research and prepare agriculture
84 related plans, including a comprehensive local agricultural land plan which shall be, to the extent
85 possible, consistent with any current town master plan and regional area plans. The plan shall
86 show or identify: (i) agricultural land areas and facilities; (ii) matters which may be shown on a
87 tract index under section 33 of chapter 184; (iii) acquisitions of interest in land under this
88 section; (iv) municipal lands that are held as open space; (v) non-municipal land subject to legal
89 requirements or restrictions to protect that land or use it for open space, conservation, recreation
90 or agriculture; (vi) land that should be retained as a public necessity for agricultural use; and (vii)
91 any other information that the commission determines to be relevant to local agricultural land
92 use. The commission may amend the plan whenever necessary.

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

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

100 (f) A municipal agricultural commission shall consist of not less than 3 nor more than 7
101 members who shall be residents of the municipality. A majority of members shall be farmers or
102 employed in an agriculture related field. In the event that farmers or those employed in

103 agriculture are unavailable to serve on the commission, then the commission shall include a
104 majority of members with knowledge and experience in agricultural practices or knowledge of
105 related agricultural business. Each member of the commission shall serve for a term of 3 years;
106 provided, however, that the initial members appointed under this section shall serve for terms of
107 1, 2 or 3 years and the terms shall be arranged by the appointing authority so that the terms of
108 approximately 1/3 of the commission's members shall expire each year.

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

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

120 (g) A municipal agricultural commission may receive gifts, bequests or devises of
121 personal property or interests in real property as described in this subsection in the name of the
122 city or town, subject to the approval of the city council or board of selectmen. The municipal
123 agricultural commission may purchase interests in the land only with funds available to the
124 commission. A city council or a town meeting may raise or transfer funds so that the municipal

125 agricultural commission may acquire in the name of the city or town by option, purchase, lease
126 or otherwise the fee in the land or water rights, conservation or agricultural restrictions,
127 easements or other contractual rights as may be necessary to acquire, maintain, improve, protect,
128 limit the future use of or conserve and properly utilize open spaces in land and water areas within
129 the city or town. The municipal agricultural commission shall manage and control the interests in
130 land acquired under this subsection. The commission shall not take or obtain land by eminent
131 domain.

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

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

145 SECTION 6A. Section 15 of said chapter 40, as appearing in the 2014 Official Edition,
146 is hereby amended by striking out, in line 4, the words “or right, or part thereof” and inserting in

147 place thereof the following words:- right or restriction, as defined in section 31 of chapter 184,
148 or part of any such land, easement, right or restriction, held by a governmental body.

149 SECTION 7. Chapter 61A of the General Laws is hereby amended by striking out section
150 4, as so appearing, and inserting in place thereof the following section:-

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

156 (b) Land qualifying under subsection (a) shall include: (i) contiguous land under the same
157 ownership that is not committed to residential, industrial or commercial use and which is covered
158 by an application submitted pursuant to section 6; and (ii) noncontiguous land under the same
159 ownership that is not committed to residential, industrial or commercial use and which is covered
160 by an application submitted pursuant to said section 6 if that noncontiguous land is located
161 within a ½ mile of any boundary of other land under the same ownership and it is utilized
162 together with that other land for a unified agricultural, horticultural, agricultural and horticultural
163 or economic purpose. Land shall be deemed contiguous if it is separated from other land under
164 the same ownership by only a public or private way, waterway or an easement for water supply.

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

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

170 SECTION 8. Said chapter 61A is hereby further amended by striking out sections 5 and
171 6, as so appearing, and inserting in place thereof the following 2 sections:-

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

177 Section 6. The eligibility of land for valuation, assessment and taxation pursuant to
178 section 4 shall be determined separately for each tax year. An application for eligibility shall be
179 submitted to the board of assessors in the city or town in which the land is situated by not later
180 than December 1 preceding each tax year for which the valuation, assessment and taxation are
181 being sought. The application may not be withdrawn after it is submitted. An application shall
182 be made on a form prescribed by the commissioner of revenue and provided to applicants by the
183 board of assessors. The form shall provide for the reporting of information pertinent to this
184 chapter and of Article XCIX of the Articles of Amendment to the Constitution of the
185 Commonwealth and for certification by the applicant that the applicant will immediately, but not
186 later than December 1 of the following year, notify the board of assessors in writing of any
187 subsequently developing circumstance within the applicant's control or knowledge which may
188 cause a change in use of the land covered by the form. An application submitted under this
189 section for leased land shall be accompanied by a written statement of the lessee's intent to use

190 the land for the purposes in the application and shall be signed by the lessee. The landowner shall
191 certify, in a manner prescribed by the commissioner, that under the penalties of perjury the
192 information in the landowner's application is true. If the application is allowed under section 9,
193 then the classification of the land as actively devoted to agricultural, horticultural or agricultural
194 and horticultural use shall take effect on January 1 preceding the beginning of the tax year to
195 which the application relates and taxation under this chapter shall commence with that tax year.

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

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

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

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

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

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

223 Section 3. The eligibility of land for valuation, assessment and taxation under this chapter
224 shall be determined separately for each tax year. An application for eligibility shall be submitted
225 to the board of assessors in the city or town in which the land is situated by not later than
226 December 1 preceding each tax year for which the valuation, assessment and taxation is being
227 sought. The application shall be made on a form prescribed by the commissioner of revenue and
228 provided to applicants by the board of assessors. The form shall provide for the reporting of
229 information pertinent to this chapter and for certification by the applicant that the applicant will
230 immediately, but not later than the December 1 of the following year, notify the board of
231 assessors in writing of any subsequent circumstance within the applicant's control or knowledge
232 which may cause a change in use of the land covered by the form. An application submitted
233 under this section for leased land shall be accompanied by a written statement of the lessee's

234 intent to use the land for the purposes in the application and shall be signed by the lessee. The
235 landowner shall certify, in a manner prescribed by the commissioner, that under the penalties of
236 perjury the information in the landowner's application is true. If the application is allowed under
237 section 6, then the classification of the land as recreational land shall take effect on January 1
238 preceding the beginning of the tax year to which the application relates and taxation under this
239 chapter shall commence with that tax year.

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

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

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

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

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

261 The assignment shall be for the purpose of maintaining not less than 70 per cent of the
262 land in use as forest land as defined in section 1 of chapter 61, as agricultural and horticultural
263 land as described in sections 1 and 2 of chapter 61A or as recreation land as described in section
264 1 of this chapter and the assignee shall not develop a greater proportion of the land than was
265 proposed by the developer whose offer gave rise to the assignment. All land other than land that
266 is to be developed shall then be bound by a permanent deed restriction that meets the
267 requirements of chapter 184.

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

270 Section 13F. (a) A dairy farmer manufacturing raw milk for human consumption shall be
271 licensed under section 16A of chapter 94 and section 5 of chapter 94A. A licensed raw milk
272 farmer may deliver raw milk directly to a consumer, off-site from the farm, if the raw milk
273 farmer has a direct, contractual relationship with the consumer. The raw milk farmer may
274 contract with a third party for such delivery; provided, however, that the raw milk farmer shall
275 maintain the contractual relationship with the consumer. The raw milk farmer may deliver raw
276 milk through a community supported agriculture, or CSA, delivery system; provided, however,
277 that the raw milk farmer shall maintain a contractual relationship with the consumer. Delivery

278 may be made directly to the consumer's residence or to a pre-established receiving site. A
279 receiving site shall not be in a retail setting with the exception of a CSA delivery. In such
280 instances, raw milk shall be kept separate from retail items for sale and shall not be accessible to
281 the general public.

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

285 (c) The department of agricultural resources and the department of public health, acting
286 jointly, shall adopt and promulgate rules and regulations governing the handling, packaging,
287 storage, testing and transportation of raw milk; provided, however, that any delivery vehicle
288 transporting raw milk shall comply with the inspection requirements set forth in sections 33, 35
289 and 40.

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

294 SECTION 17A. Section 31 of chapter 111 of the General Laws, as appearing in the 2014
295 Official Edition, is hereby amended by inserting after the first paragraph the following
296 paragraph:-

297 In a city or town with a municipal agricultural commission, as defined in section 8L of
298 chapter 40, the board of health in that city or town shall, during the publication period, solicit and

299 consider comments submitted by the municipal agricultural commission on regulations that have
300 an impact on farming or agriculture as defined in section 1A of chapter 128.

301 SECTION 17B. Section 1 of chapter 128, as appearing in the 2014 Official Edition, is
302 hereby amended by inserting after the definition of “Nursery stock” the following 2 definitions:-

303 “Recyclable paper bag”, a paper bag that is 100 per cent recyclable and has the words
304 “Recyclable” and “Reusable” in a clearly visible manner on the outside of the bag.

305 “Reusable Bag”, a bag with handles that is specifically designed and manufactured to be
306 used multiple times and is made of cloth, industrial vinyl or other machine washable fabric
307 suitable to be used at least 125 times.

308 SECTION 17C. Said section 1 of said chapter 128, as so appearing, is hereby further
309 amended by inserting after the definition of “Riding school operator” the following definition:-

310 “Single-use plastic carryout bag”, a non-reusable bag made of plastic that is provided to a
311 customer by a store at the point of sale.

312 SECTION 18. Section 1A of said chapter 128, as so appearing, is hereby amended by
313 adding the following definition:-

314 “Farmers’ market”, a building, structure or market that is used by 2 or more farmers for
315 the direct sale of food crops and other farm related or locally hand crafted items to the public that
316 operates or occurs more than once per year for the primary purpose of promoting goods
317 produced in the commonwealth; provided, however, that the origin of all products is clearly
318 identified.

319 SECTION 18A. Said chapter 128 is hereby further amended by inserting after section
320 1A the following section:-

321 Section 1B. A vendor at a farmers' market shall not provide a single-use plastic carryout
322 bag to a customer at the point of sale; provided, however, that a plastic bag without handles that
323 is used to protect items from damage or from damaging or contaminating other purchased items
324 or to contain an unwrapped food item may be distributed to a customer by a vendor at the point
325 of sale.

326 Recyclable paper bags shall be provided without cost to customers upon request and
327 reusable bags may be offered for sale or provided without cost to customers, subject to
328 regulations by the department.

329 SECTION 18B. Section 2 of said chapter 128, as appearing in the 2014 Official Edition,
330 is hereby amended by adding the following subsection:-

331 (l) Promulgate regulations on product signage at farmers' markets to identify the
332 producer or source of each product including if the product was grown, raised or made
333 exclusively by the vendor and if the product was grown, raised or made exclusively in the
334 commonwealth. The commissioner may develop enforcement mechanisms to ensure compliance
335 with this subsection.

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

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

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

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

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

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

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

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

363 (b) The commissioner may license cities and towns to establish, improve, maintain,
364 operate and access local community gardens on designated department land. The licenses shall
365 be granted upon such terms, restrictions and agreements and for such period of years, not
366 exceeding 10 years, as the commissioner deems appropriate; provided, however, that the land
367 licensed shall be utilized for the department's community garden program and such use shall be
368 consistent with the applicable rules and regulations of the department; and provided further, that
369 under any such license, a city or town may be responsible for the costs and expenses, or portion
370 thereof, to establish, improve, maintain and operate community gardens.

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

374 (c) The commissioner may license qualified nonprofit organizations to establish,
375 improve, maintain, operate and access community gardens on designated department land. The
376 licenses shall be granted upon such terms, restrictions and agreements and for such period of
377 years, not exceeding 5 years, as the commissioner deems appropriate; provided, however, that
378 the land shall be used for the department's community garden program and such use shall be
379 consistent with the applicable rules and regulations of the department. Licenses shall be granted
380 based on a competitive application and proposal process. A license shall not be granted to a
381 nonprofit organization for designated land unless the commissioner has first provided the city or

382 town where the available land is located with the option to be granted a license for such
383 community garden site.

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

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

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

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

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

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

407 The temporary establishment of a farmers' market as approved by the commissioner shall
408 be at suitable land and parking areas accessible by the public and at appropriate times during
409 daylight hours. Under the program, the commissioner may issue special seasonal permits to
410 farmer vendors, which shall be restricted to specific approved public market sites and times, and
411 shall be upon such terms and conditions as the commissioner may deem appropriate. As a
412 condition of the issuance of a permit, a farmer vendor shall be required to comply with any laws
413 and regulations applicable to the vending of food and agricultural products at the farmers'
414 market. A farmer vendor shall not engage in the preparation or sale of value-added agriculture
415 products or food without a license and inspection by the local board of health pursuant to state
416 and federal food safety regulations.

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

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

421 Farmers' markets allowed pursuant to this section shall not be subject to the commercial
422 limitations in section 2B.

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

426 Section 15F. Notwithstanding any other provision of this chapter, in any city or town
427 wherein the granting of licenses to sell wines and malt beverages is authorized under this
428 chapter, the local licensing authority may issue to an applicant authorized to operate a farmer-
429 winery under section 19B a special license for the sale of wine produced by or for the licensee or
430 to an applicant authorized to operate a farmer-brewery under section 19C a special license for the
431 sale of malt beverages produced by or for the licensee and, in any city or town wherein the
432 granting of licenses to sell all alcoholic beverages is authorized under this chapter, the local
433 licensing authority may issue to an applicant authorized to operate a farmer-distillery under
434 section 19E a special license for the sale of distilled spirits produced by or for the licensee, in
435 sealed containers, for off-premises consumption at an indoor or outdoor agricultural event.

436 All sales of alcoholic beverages shall be conducted by the licensee or by an agent,
437 representative or solicitor of the licensee to customers who are at least 21 years of age. A
438 licensee under this section may provide, without charge, samples of its alcoholic beverages to
439 prospective customers at an indoor or outdoor agricultural event. All samples shall be served by
440 the licensee or by an agent, representative or solicitor of the licensee to individuals who are at
441 least 21 years of age and all samples shall be consumed in the presence of such licensee or in the
442 presence of an agent, representative or solicitor of the licensee; provided, however, that no
443 sample of wine shall exceed 1 ounce, no sample of malt beverages shall exceed 2 ounces and no
444 sample of distilled spirits shall exceed 1/4 ounce; and provided further that not more than 5
445 samples shall be served to an individual prospective customer. For the purposes of this section,

446 “agricultural event” shall be limited to those events certified by the department of agricultural
447 resources as set forth in this section.

448 An applicant for a special license under this section shall first submit a plan to the
449 department of agricultural resources that shall demonstrate that the event is an agricultural event.
450 The plan shall include a description of the event, the date, time and location of the event, a copy
451 of the operational guidelines or rules for the event, written proof that the prospective licensee has
452 been approved as a vendor at the event, including the name and contact information of the on-
453 site manager, and a plan depicting the premises and the specific location where the license shall
454 be exercised.

455 Upon review of the plan, the department may certify that the event is an agricultural
456 event; provided, however, that in making that determination, the department shall consider the
457 following factors: (i) operation as a farmers' market or agricultural fair approved or inspected by
458 the department; (ii) frequency and regularity of the event, including dates, times and locations;
459 (iii) number of vendors; (iv) terms of vendor agreements; (v) presence of an on-site manager;
460 (vi) training of the on-site manager; (vii) operational guidelines or rules which shall include
461 vendor eligibility and produce source; (viii) focus of event on local agricultural products grown
462 or produced within the market area; (ix) types of shows or exhibits, including those described in
463 subsection (f) of section 2 of chapter 128; and (x) sponsorship or operation by an agricultural or
464 horticultural society organized under the laws of the commonwealth, or by a local grange
465 organization or association which has a primary purpose of promoting agriculture and its allied
466 industries. The department of agricultural resources may promulgate rules and regulations
467 necessary for the operation, oversight, approval and inspection of agricultural events under this
468 section.

469 An applicant for a special license under this section shall file with the local licensing
470 authority along with its application proof of certification from the department of agricultural
471 resources that the event is an agricultural event. A special license under this section shall
472 designate the specific premises and the dates and times covered. A special license may be
473 granted for an indoor or outdoor agricultural event which takes place on multiple dates or times
474 during a single calendar year but no special license shall be granted for an agricultural event that
475 will not take place within 1 calendar year. The special license shall be conspicuously displayed at
476 the licensed premises. A copy of a special license granted by the local licensing authority shall
477 be submitted by the authority to the commission at least 7 days before the date the agricultural
478 event is first scheduled to begin. The local licensing authority may charge a fee for each special
479 license granted but such fee shall not exceed \$50. A special license granted under this section
480 shall be nontransferable to any other person, corporation or organization and shall be clearly
481 marked "nontransferable" on its face.

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

484 A special license under this section may be granted by the local licensing authorities for a
485 portion of premises that are licensed under section 12; provided, however, that: (i) the holder of
486 the special license shall document the legal basis for use of the section 12 licensed premises; (ii)
487 the area in which the special license is to be approved shall be physically delineated from the
488 area remaining under the control of the section 12 license holder; (iii) the holder of the special
489 license shall be solely liable for all activities that arise out of the special license; and (iv) the
490 holder of the special license shall not pay any consideration, directly or indirectly, to the section
491 12 license holder for the access to or use of the section 12 licensee's premises.

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

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

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

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

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

511 (b) There shall be established an advisory committee to make recommendations to the
512 board of state examiners of plumbers and gas fitters for amendments to the Uniform State
513 Plumbing Code under 248 CMR 10.00 to adopt separate regulatory provisions specific to

514 buildings and operations related to farming. The advisory committee shall consist of: the
515 chairperson of the board of state examiners of plumbers and gas fitters, or designee, who shall
516 serve as a co-chair of the advisory committee; the commissioner of agricultural resources, or
517 designee, who shall serve as a co-chair of the advisory committee; the commissioner of public
518 health or designee; the chair of the Northeast Regional Coalition of the International Code
519 Council or designee; 1 person shall be appointed by the governor who shall be employed as a
520 municipal plumbing inspector for at least 10 years and who has no other financial interest related
521 to the plumbing business; and 2 person to be appointed by the commissioner of agricultural
522 resources, of whom 1 shall be a farmer and a member of the Massachusetts Farm Bureau
523 Federation and 1 shall be an organic farmer and a member of the Northeast Organic Farming
524 Association/Massachusetts Chapter.

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

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

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

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

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

553 The plan shall include, but not be limited to: (i) an inventory of state land in active
554 agricultural production or that is potentially suitable for farming; (ii) a review of state agency
555 policies related to the use or lease of land for farming and recommendations related to state
556 policies for the use and lease of state-owned land for farming; (iii) an analysis of recent trends
557 and potential threats related to farmland loss and conversion and its recommendations, including

558 resources necessary to improve state data collection for farmland trends and to establish a system
559 for tracking acres of farmland in production over time; (iv) recommended statutory, regulatory or
560 policy revisions to the agricultural preservation restriction program to support the long-term
561 economic viability of protected farms, to address housing needs and to ensure the program is
562 managed in a transparent and consistent manner and with policies that keep pace with changes in
563 agriculture and associated markets; (v) an analysis of farmland enrolled in a program under
564 chapter 61A of the General Laws and recommendations for improving enrollment of farmland in
565 the program; and (vi) measurable statewide goals and benchmarks related to farmland
566 conversion, farmland protection and farmland access and recommendations for state policy
567 changes and program funding levels to meet these goals and benchmarks. The plan may include
568 maps, illustrations and other media and shall be based on best available science and best
569 management practices.

570 (b) There shall be a farmland protection and viability advisory commission to assist the
571 secretary in developing the farmland action plan. The commission shall consist of: 2 members of
572 the senate or a designee, 1 of whom shall be appointed by the minority leader; 2 members of the
573 house of representatives or a designee, 1 of whom shall be appointed by the minority leader; 1
574 member of the board of food and agriculture, as elected by the board of food and agriculture for
575 this purpose who shall chair the commission; the commissioner of agricultural resources or a
576 designee; a representative of the Center for Agriculture, Food and the Environment at the
577 University of Massachusetts at Amherst; a representative of the Massachusetts Farm Bureau
578 Federation; a representative of The Trustees of Reservations; a representative of the American
579 Farmland Trust; and 3 persons to be appointed by the governor, 1 of whom shall be a farmer, 1

580 of whom shall be a representative of an urban agriculture organization and 1 of whom shall be a
581 representative of a farmland access organization.

582 The advisory commission shall meet at least quarterly and otherwise at the discretion of
583 the chair. The commission shall make recommendations to the secretary for the proper
584 management and development of the farmland action plan. The secretary shall consider the
585 recommendations of the commission.

586 (c) The farmland action plan shall be delivered to the joint committee on environment,
587 natural resources and agriculture not later than December 31, 2017. The executive office of
588 energy and environmental affairs and the department of agricultural resources shall provide
589 technical support to the commission.

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

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

595 SECTION 29A. There shall be an advisory committee to study methods to encourage
596 development of domestic farms as well as the production and use of locally grown ingredients
597 for wine, beer and spirits. The committee shall consist of 1 representative of the Massachusetts
598 Brewers Guild, Inc.; 1 representative of the alcoholic beverages control commission; the
599 commissioner of agricultural resources or a designee, who shall serve as chair of the advisory
600 committee; the house and senate chairs of the joint committee on environment, natural resources
601 and agriculture or their designees; the house and senate chairs of the joint committee on

602 consumer protection and professional licensure or their designees; the minority leader of the
603 senate or a designee; the minority leader of the house of representatives or a designee; a
604 representative of the Massachusetts Farm Bureau Federation, Incorporated; a representative of
605 the Federation of Massachusetts Farmers Markets; and 4 persons to be appointed by the
606 governor, 2 of whom shall be representatives of licensed farmer-breweries, 1 of whom shall be a
607 representative of a licensed farmer-winery and 1 of whom shall be a representative of a licensed
608 farmer-distillery. The advisory committee shall make recommendations to the general court
609 including, but not be limited to, standard requirements or goals for farmer-wineries, farmer-
610 breweries and farmer-distilleries related to the growth of locally grown ingredients and the
611 amount of barrel production. The advisory committee shall conduct a comprehensive review and
612 evaluation of the production of ingredients and the ingredients used by existing farmer-wineries,
613 farmer-breweries and farmer-distilleries. The advisory committee shall submit its findings and
614 recommendations to the clerks of the senate and the house of representatives, the alcoholic
615 beverages control commission and the executive office of energy and environmental affairs by
616 not later than March 1, 2017.

617 SECTION 29B. The department of agricultural resources, in collaboration with The
618 Center for Agriculture, Food and the Environment at the University of Massachusetts at
619 Amherst, shall conduct a cost-benefit analysis on the effects of adding hydroponic and aquaponic
620 farming methods to the definition of “farming” or “agriculture” under section 1A of chapter 128
621 of the General Laws. The department shall submit a final report that includes the results of its
622 cost-benefit analysis and the department’s recommendations, if any, to the clerks of the senate
623 and house of representatives and the joint committee on environment, natural resources and
624 agriculture by not later than December 31, 2016.

625 SECTION 29C. (a) There shall be a special commission established pursuant to section
626 2A of chapter 4 to investigate and study methods and solutions to protect and promote
627 pollinators' health. The commission shall consist of: 1 member of the senate; 1 member of the
628 house of representatives; 1 member of the senate appointed by the minority leader of the senate;
629 1 member of the house of representatives appointed by the minority leader of the house of
630 representatives; the secretary of energy and environmental affairs or a designee, who shall serve
631 as chair; 6 people to be appointed by the governor, 1 of whom shall be a University of
632 Massachusetts faculty member specializing in the science of pollinator health, 1 of whom shall
633 represent an advocacy group for farmers, 1 of whom shall represent an advocacy group for
634 organic farmers, 1 of whom shall represent an advocacy group for cranberry producers, 1 of
635 whom shall be a commercial beekeeper, 1 of whom shall be a representative of the University of
636 Massachusetts Extension with knowledge in crops which rely on pollinators and pollinator
637 health; and 6 people to be appointed by the attorney general, 1 of whom is certified as a master
638 gardener representing the public, 1 of whom shall represent an advocacy group dedicated to the
639 protection of pollinators and invertebrates, 2 of whom shall be beekeepers representing the
640 county beekeeping associations, 1 of whom shall represent an advocacy group for nurseries and
641 1 of whom shall represent an advocacy group dedicated to environmental protection.

642 (b) The special commission shall examine issues relevant to pollinator health, including:

- 643 (i) studying current regulations in the commonwealth and other states and countries related to
644 pollinators and pollinator health; (ii) studying public education and outreach plans regarding
645 pollinator health that have been successful in other states; (iii) evaluating the current apiary
646 inspection program with specific focus on parasitic diseases; (iv) identifying adequacy of
647 funding for efforts to promote or protect pollinator health; (v) investigating other methods to

648 increase and strengthen pollinator vitality including proposed changes in law or regulation; (vi)
649 investigating the means used by other states to gather data on populations of pollinators; (vii)
650 evaluating existing best management practices for promoting pollinator health including, but not
651 limited to, foraging and proper food source diversity; (viii) evaluating proposed pollinator
652 protection plans; and (ix) studying the use of nonagricultural lands and how those lands may be
653 used to provide pollinator forage and unique opportunities to increase pollinator populations.

654 (c) The special commission may take actions necessary and proper to carry out the work
655 of the commission including, but not limited to, scheduling hearings and taking testimony on
656 matters related to pollinator health.

657 (d) The special commission shall defer to the pesticide board on matters regarding the
658 regulation, review and use of pesticides under chapter 132B, including, but not limited to the
659 regulation, review or use of neonicotinoids.

660 (e) No later than June 30, 2017, the special commission shall submit a report to the clerks
661 of the senate and house of representatives and to the joint committee on environment, natural
662 resources and agriculture detailing the results of its investigation and study and provide
663 recommendations, together with drafts of legislation.

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

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

669 SECTION 32. The regulations required to be promulgated pursuant to sections 17, 22 and
670 29 shall be completed not later than 270 days after the effective date of this act.

671 SECTION 33. Sections 17B, 17C and 18A shall take effect on May 1, 2017.