

HOUSE No. 2937**The Commonwealth of Massachusetts**

PRESENTED BY:

Paul A. Schmid, III

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the use of Department of Conservation and Recreation property for farmers markets and community gardens.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>	<i>1/20/2017</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>1/30/2017</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>2/3/2017</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>	<i>2/3/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/26/2017</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>2/1/2017</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>1/26/2017</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>1/23/2017</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>1/24/2017</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>2/1/2017</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>	<i>1/31/2017</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>2/3/2017</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>1/30/2017</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>1/29/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>1/27/2017</i>

<i>Leonard Mirra</i>	<i>2nd Essex</i>	<i>1/24/2017</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>2/1/2017</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/24/2017</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>1/24/2017</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>	<i>1/23/2017</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/3/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>1/30/2017</i>

HOUSE No. 2937

By Mr. Schmid of Westport, a petition (accompanied by bill, House, No. 2937) of Paul A. Schmid, III and others for legislation to authorize the Department of Conservation and Recreation to establish a program to provide for the use of certain state owned land for community gardens and farmers' markets. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act relative to the use of Department of Conservation and Recreation property for farmers markets and community gardens.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 132A of the General Laws is hereby amended by inserting after
2 section 2D, the following 2 sections:-

3 Section 2E. (a) The commissioner of the department of conservation and recreation shall
4 establish a program to provide for the use of designated lands in state-owned department parks
5 and reservations throughout the commonwealth for community gardens. Lands so designated
6 shall be restricted to noncommercial horticultural uses of growing and harvesting food crops by
7 inhabitants of local communities.

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

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

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

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

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

(c) The commissioner shall be authorized to license qualified non-profit organizations to, establish, improve, maintain, operate and access community gardens on designated department land. Said licenses shall be granted, upon such terms, restrictions and agreements, and for such period of years, not exceeding 5, as the commissioner may deem appropriate; provided, that the land is used for the purposes of the department's community garden program consistent with the applicable rules and regulations of the department; and provided further, said licenses are granted

based on a competitive application and proposal process. Notwithstanding, no license shall be granted to a non-profit organization for designated land unless, the commissioner has first provided the city or town where the available land is located, the option to be granted a license for such community garden site.

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

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

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

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

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

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

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

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

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

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