

SENATE No. 2738

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

SENATE, March 3, 2022.

The committee on Environment, Natural Resources and Agriculture, to whom was referred the petition (accompanied by bill, Senate, No. 590) of Susan L. Moran, William M. Straus, Michael D. Brady, Michael O. Moore and others for legislation to encourage the use of renewable energy on agricultural land, reports the accompanying bill (Senate, No. 2738).

For the committee,
Rebecca L. Rausch

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An Act encouraging the use of renewable energy on agricultural land.

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. Subsection (a) of section 2A of chapter 61A of the general laws, as
2 appearing in the 2018 Official Edition, is hereby amended in line 6 by striking the words
3 “chapter 25” and inserting in place thereof the following:- chapter 25A.

4 SECTION 2. Said section 2A of said chapter 61A is hereby further amended by striking
5 out subsections (b) to (c), inclusive, and inserting in place thereof the following sections:-

6 (b) In addition to the use provided for in subsection (a), land used primarily and directly
7 for agricultural purposes pursuant to section 1 or land used primarily and directly for
8 horticultural use pursuant to section 2 may, in addition to being used primarily and directly for
9 agriculture or horticulture, be used to site a renewable energy generating source, as defined in
10 subsection (b) of section 11F of chapter 25A, that qualifies in accordance with a solar incentive
11 program for agriculture or horticulture sectors developed by the department of energy resources
12 if such renewable energy generating source does not impede the continued use of the land for
13 agricultural or horticultural purposes pursuant to this chapter.

14 (c) Land used primarily and directly for agricultural purposes pursuant to section 1 or
15 land used primarily and directly for horticultural purposes pursuant to section 2 shall be deemed
16 to be in agricultural or horticultural use pursuant to this chapter if used to simultaneously site a
17 renewable energy generating source pursuant to subsection (a) and subsection (b).

18 (d) Renewable energy generating sources located on land used primarily and directly for
19 agricultural purposes pursuant to section 1 or land used primarily and directly for horticultural
20 purposes pursuant to section 2 shall be subject to the provisions afforded to agriculture in
21 accordance with section 3 of chapter 40A.

22 (e) The executive office of energy and environmental affairs shall promulgate rules and
23 regulations to implement the provisions of this section. Said regulations shall include, but not be
24 limited to: (i) appropriate construction practices and allowable building materials for renewable
25 energy generating sources installed pursuant to this section so as to protect the water and soil
26 quality of the land and minimize adverse environmental impacts; (ii) appropriate data collection
27 and reporting requirements for land sited for renewable energy generation under this section; and
28 (iii) the definition of “continued use” of agricultural and horticultural land as provided in
29 subsection (b) of this section. The executive office shall hold up to 3 public hearings to receive
30 feedback on draft regulations in geographically-diverse impacted regions throughout the
31 Commonwealth before finalizing said regulations.

32 SECTION 3. Notwithstanding any general or special law to the contrary, the executive
33 office of energy and environmental affairs shall promulgate regulations required under section
34 2A of said chapter 61A within 6 months of the passage of this Act.