

The Commonwealth of Massachusetts

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

1 by inserting after section 124, the following 2 new sections:-

2 "SECTION 124A. The General Laws are hereby amended by inserting after chapter 128C
3 the following new chapter:-

4 Chapter 128D: LOCAL GARDEN AGRICULTURE PROGRAM

5 Section 1: As used in this section, the following words shall have the following
6 meanings, unless the context clearly requires otherwise:

7 'Chemical fertilizer', any chemical compound of synthetic origin applied to soil or to a
8 plant to supply the plant with nutrients.

9 'Chemical herbicide', any chemical compound of synthetic origin applied to plants, crops,
10 or soil which is designed, used, or intended to kill or inhibit the growth of unwanted plants or
11 fungi.

12 'Chemical pesticide', any chemical compound of synthetic origin applied to plants, crops,
13 or soil which is designed, used, or intended to kill pests that can damage crops or interfere with
14 agricultural production, including insects, birds, rodents, or any other type of animal.

15 'Commissioner', the commissioner of the Massachusetts department of agricultural
16 resources.

17 'Division', the agriculture jobs division.

18 'Garden Agriculture Program', the cumulative entirety of any and all rules, regulations,
19 contracts, plans, projects, expenditures, and activities completed by the division in order to
20 award Garden Agriculture Grants to recipients, including, but not limited to, designing the
21 Garden Agriculture Grant Application, reviewing Garden Agriculture Grant Applications which
22 have been submitted by Garden Agriculture Grant Applicants, awarding Garden Agriculture
23 Grants, hiring Technical Assistance Experts, and monitoring and enforcing compliance with the
24 provisions of this chapter. The Program shall be designed to: (i) enable Massachusetts residents,
25 whether individually or through a nonprofit entity, to establish small-scale food gardens; (ii)
26 localize food production to reduce the carbon emissions created by buying food produced out of
27 state; and (iii) increase Massachusetts residents' access to locally grown food with high
28 nutritional value.

29 'Garden Agriculture Grant', a delivery, from the Agriculture Jobs Division to a Garden
30 Agriculture Grant Recipient, of items, tools, resources, seeds, instructional guides, and other
31 goods specified in Section 5 of this chapter.

32 'Garden Agriculture Grant Application', a form used to request a Garden Agriculture
33 Grant.

34 'Garden Agriculture Grant Applicant', a party who submits a Garden Agriculture Grant
35 Application.

36 'Garden Agriculture Grant Recipient', a party who receives a Garden Agriculture Grant.

37 Section 2. The division shall create the Garden Agriculture Program.

38 Section 3. (a) The division shall create the Garden Agriculture Grant Application for use
39 by individuals and qualifying nonprofit organizations to apply for a Garden Agriculture Grant.

40 The division and its agents and employees shall refer to the Garden Agriculture Grant
41 Application as such.

42 (b) The Garden Agriculture Grant Application shall require individual applicants to: (i)
43 provide their name; (ii) provide their address; (iii) provide their cumulative family adjusted gross
44 income; (iv) identify which of the available gardening items they would like to receive as part of
45 the grant from a list, which list shall include without limitation a trowel, a spade, a pair of
46 pruners, soil, mulch, and organic fertilizer; (v) identify which types of seeds they would like to
47 receive as part of the grant, choosing from a list of available seed types which shall be listed on
48 the Garden Agriculture Grant Application; (vi) indicate whether they would like to receive one
49 raised garden bed or two raised garden beds as part of the grant; (vii) identify the dimensions that
50 they would like the raised garden bed or beds to have, choosing from a list of available
51 dimensions which shall be listed on the Garden Agriculture Grant Application; (viii) indicate
52 whether they would like to receive any other tools, equipment, resources, or items listed on the
53 Garden Agriculture Grant Application, which the commissioner has deemed appropriate to list
54 on the Garden Agriculture Grant Application, provided that it is reasonable to believe that
55 including those tools, equipment, resources, or items on the Garden Agriculture Grant
56 Application would improve the Garden Agriculture Program; and (ix) provide any other

57 information the commissioner deems appropriate for determining whether to award the applicant
58 a Garden Agriculture Grant.

59 (c) The Garden Agriculture Grant Application shall require nonprofit organization
60 applicants to: (i) provide the title of their organization; (ii) provide their address; (iii) provide
61 their taxpayer identification number; (iv) provide the name and contact information for a staff
62 person responsible for implementing the grant; (v) provide demographics information and
63 income eligibility of the population that will farm or be served by the community garden; (vi)
64 indicate whether the community garden will be located in or will serve an environmental justice
65 population or a community lacking convenient access to quality fresh food; (vii) identify which
66 of the available gardening items they would like to receive as part of the grant from a list, which
67 list shall include without limitation a trowel, a spade, a pair of pruners, soil, mulch, and organic
68 fertilizer; (viii) identify which types of seeds they would like to receive as part of the grant,
69 choosing from a list of available seed types which shall be listed on the Garden Agriculture
70 Grant Application; (ix) indicate the number of individuals that will be farming and therefore the
71 number of garden plots as part of the grant; (x) identify the dimensions that they would like the
72 garden plots to have, choosing from a list of available dimensions which shall be listed on the
73 Garden Agriculture Grant Application; (xi) indicate whether they would like to receive any other
74 tools, equipment, resources, or items listed on the Garden Agriculture Grant Application, which
75 the commissioner has deemed appropriate to list on the Garden Agriculture Grant Application,
76 provided that it is reasonable to believe that including those tools, equipment, resources, or items
77 on the Garden Agriculture Grant Application would improve the Garden Agriculture Program;
78 and (xii) provide any other information the commissioner deems appropriate for determining
79 whether to award the applicant a Garden Agriculture Grant.

80 (d) The Garden Agriculture Grant Application shall include: (i) a brief description of the
81 purposes of the Garden Agriculture Grants; (ii) a description of the restrictions, legal duties, and
82 obligations that accompany the receipt of a Garden Agriculture Grant, including, but not limited
83 to, the requirements provided in Section 7 of this chapter; (iii) a space for the applicant to sign
84 and date the application; and (iv) a clearly worded statement advising potential applicants that by
85 signing, dating, and submitting a Garden Agriculture Grant Application, they are agreeing to
86 abide by and comply with the restrictions, legal duties, and legal obligations that accompany
87 receipt of a Garden Agriculture Grant.

88 (e) The Garden Agriculture Grant Application shall be easily accessible on the website of
89 the division. Applicants shall be given the option of submitting their Garden Agriculture Grant
90 Application electronically on the website of the division. Visitors to the website of the division
91 shall be able to download and print as many copies of the Garden Agriculture Grant Application
92 as they wish. The division shall also allow applicants to easily and conveniently submit non-
93 electronic, paper versions of the Garden Agriculture Grant Application.

94 (f) The Garden Agriculture Grant Application shall be available in English and in any
95 other language spoken by at least 10 percent of the Massachusetts population.

96 (g) The division shall only approve a Garden Agriculture Grant Application if it intends
97 to provide the Garden Agriculture Grant Applicant with a Garden Agriculture Grant.

98 Section 4. The division shall, at all times, prioritize Garden Agriculture Grant
99 Applications submitted by Garden Agriculture Grant Applicants who are individuals with lower
100 annual, cumulative household adjusted gross incomes or nonprofit organizations that serve such
101 individuals.

102 Section 5. (a) A Garden Agriculture Grant shall consist of: (i) all of the items requested
103 by the applicant pursuant to Section 3(b)(iv) of this chapter; (ii) all of the seeds requested by the
104 applicant pursuant Section 3(b)(v) of this chapter, in a quantity equal to no less than 200 seeds
105 divided by the number of types of seeds the applicant requested; (iii) any raised garden bed or
106 raised garden beds requested by the applicant, pursuant to Section 3(b)(vi) and Section 3(b)(vii)
107 of this chapter, provided that no applicant shall receive more than two raised garden beds; (iv)
108 any additional items requested by the applicant, pursuant to Section 3(b)(viii) of this chapter; (v)
109 organic fertilizer; (vi) mulch and soil; (vii) assistance assembling and setting up any raised
110 garden bed which was included in the Garden Agriculture Grant; (viii) assistance setting up any
111 pest control cage included in the Garden Agriculture Grant; (ix) an accessible instructional guide
112 for how to plant, grow, and harvest the types of plants associated with the seeds the applicant
113 requested, pursuant to Section 3(b)(v) of this chapter, in English and in any other language
114 spoken by at least 10 percent of the Massachusetts population; and (x) any other item or items
115 which the commissioner determines should be included in all Garden Agriculture Grants.

116 (b) Any raised garden bed delivered to any applicant as part of a Garden Agriculture
117 Grant shall have a built-in pest-control cage or shall arrive with a separately installable pest-
118 control cage.

119 Section 6. (a) No later than 2 weeks after approving a Garden Agriculture Application,
120 the division shall notify the applicant that their application was approved, either by mail,
121 electronic mail, or by telephone.

122 (b) After approving a Garden Agriculture Application, the division shall deliver the
123 Garden Agriculture Grant to the applicant, to arrive no later than 2 months after the application
124 was approved.

125 Section 7. (a) Every Garden Agriculture Grant Recipient is prohibited from using
126 chemical pesticides.

127 (b) Every Garden Agriculture Grant Recipient is prohibited from using chemical
128 herbicides.

129 (c) Every Garden Agriculture Grant Recipient is prohibited from using chemical
130 fertilizer.

131 (d) Every Garden Agriculture Grant Recipient is prohibited from selling, trading, or
132 otherwise alienating any of the items, seeds, tools, equipment, or raised garden bed that they
133 received as part of their Garden Agriculture Grant.

134 Section 8. (a) The division shall hire at least one Technical Assistance Expert as a full-
135 time employee to receive and resolve questions from Garden Agriculture Grant Recipients
136 related to optimal, effective, or proper agricultural practices, and to refer Garden Agriculture
137 Grant Recipients to agricultural resources and resource centers, as appropriate, including but not
138 limited to the University of Massachusetts Center for Agriculture, Food and the Environment.

139 (b) Technical Assistance Experts must speak both English and any other language spoken
140 by at least 10 percent of the Massachusetts population.

141 (c) Technical Assistance Experts must have experience practicing agricultural gardening
142 without the use of chemical fertilizers, chemical pesticides, or chemical herbicides.

143 (d) Technical Assistance Experts must be qualified to answer questions that Garden
144 Agriculture Grant Recipients could reasonably be expected to have as they set up their gardens,
145 plant seeds, and grow and harvest plants.

146 (e) Technical Assistance Experts must receive an annual salary that is not less than 140
147 percent of the statewide per capita income, as calculated by the United States Census Bureau.

148 (f) Technical Assistance Experts must receive health insurance, dental insurance, at least
149 two weeks of paid vacation time, and at least one paid sick day off of work for every 20 days in
150 which they work more than 6 hours.

151 SECTION 124B. Chapter 132A of the General Laws is hereby amended by inserting after
152 section 2D the following 2 sections:-

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

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

161 The department shall evaluate, identify and map community garden lands, and post
162 relevant information about the sites and potential sites on the department's public website. The
163 department shall conduct culturally competent and linguistically diverse public outreach to

164 municipalities and qualified nonprofit organizations about the program, including targeted efforts
165 in environmental justice populations as defined in section 62 of chapter 30.

166 (b) The commissioner shall be authorized to license cities and towns and qualified non-
167 profit organizations to establish, improve, maintain, operate and access local community gardens
168 on designated department land. The commissioner shall prioritize initial grants to municipalities
169 that encompass and nonprofit organizations that serve environmental justice populations as
170 defined in section 62 of chapter 30. Said licenses shall be granted for no fee, upon such terms,
171 restrictions and agreements, and for such period of years as the commissioner may deem
172 appropriate; provided, that the land licensed is utilized for the purposes of the department's
173 community garden program consistent with the applicable rules and regulations established by
174 the department; provided further, that licenses shall be granted through a competitive application
175 process; provided further, that licensees may be responsible for costs and expenses, or portions
176 thereof, to establish, improve, maintain and operate community gardens; provided further, that
177 licenses to cities and towns shall be for periods not to exceed 10 years; provided further, that
178 licenses to qualified non-profit organizations shall be for periods not to exceed 5 years; and
179 provided further, that no license shall be granted to a qualified non-profit organization for
180 designated land unless the commissioner has first provided the city or town where the available
181 land is located the option to be granted a license for such community garden site.

182 (c) Licenses granted for community garden lands under this section shall be revocable at
183 any time by the commissioner for the failure of licensees to comply with license terms,
184 restrictions and agreements, or applicable rules and regulations established by the department.

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

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

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

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

204 The temporary establishment of said public markets as approved by the commissioner
205 shall be at suitable land and parking areas accessible by the public, and, at appropriate times
206 during daylight hours. Under the program, the commissioner shall be authorized to issue special

207 seasonal permits to farmer vendors, with a priority for permits granted to environmental justice
208 populations as defined in section 62 of chapter 30, which shall be restricted to specific approved
209 public market sites and times, upon such terms and conditions as the commissioner may deem
210 appropriate. As a condition of the issuance of a permit, a farmer vendor shall be required to
211 comply with any laws and regulations applicable to the vending of food and agricultural products
212 at said public markets.

213 Special permits issued by the commissioner shall be based on a competitive application
214 and proposal process and be subject to revocation by the commissioner upon 60 days' notice.

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

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