

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Ryan C. Fattman

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 arbovirus in the Commonwealth.

PETITION OF:

NAME:

Ryan C. Fattman

DISTRICT/ADDRESS:

Worcester and Hampden

SENATE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to arbovirus 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. Chapter 252 of the General Laws is hereby amended by inserting after
2 section 2 the following section:-

3 Section 2A. (a) Upon the written determination of the commissioner of public health that
4 an elevated risk of arbovirus exists or may exist for the current or following year, the board, in
5 consultation with the department of public health, may engage in preventive, management and
6 eradication methods as it deems necessary in any area of the commonwealth. The commissioner
7 shall publish the determination on the department of public health’s website and include a
8 summary of the data supporting the determination. Concurrently, the commissioner shall provide
9 notice of the determination to the joint committee on public health, the joint committee on
10 environment and natural resources, and the joint committee on agriculture. In carrying out its
11 authority under this section, the board may act through any district or project duly organized
12 under this chapter or another agency of the commonwealth or employ other professionals as the
13 board deems necessary.

14 (b)(1) The board shall provide notice of the methods employed pursuant to subsection
15 (a), including the locations, the particular product to be sprayed, any health risks associated with
16 the product, and dates and times of aerial spraying or other wide-area emergency operations, not
17 less than 48 hours before the application of such an operation to entities within the affected
18 areas, including: (i) appropriate local and regional boards and commissions, including boards of
19 health; (ii) property owners who have opted out of spraying based on exclusions pursuant to
20 applicable regulations governing pesticide application; (iii) agricultural entities, including
21 beekeepers, cranberry growers, certified organic farms and aquaculture facilities; and (iv) any
22 other person who informs the board through a form made available on the board's website that
23 they wish to be informed of aerial spraying in their region.

24 The board shall provide notice to all entities within affected areas as provided in the
25 Massachusetts emergency operations response plan for mosquito-borne illnesses, as amended
26 from time to time, including integrated pest management standard written notices to schools, day
27 care centers and school age child care programs. In addition, the board shall provide notice to
28 such entities within the affected areas and to the general public by: (i) posting the notice to its
29 website not less than 48 hours before the application; and (ii) informing local officials and the
30 legislative representatives of the area being sprayed. Such notice shall also include the procedure
31 for owners of property located within the spraying area, including those with property located
32 outside of a mosquito control district, to opt out of aerial spraying or other wide area emergency
33 operations and shall be consistent with applicable regulations governing pesticide application.

34 (2) The executive office of energy and environmental affairs shall develop a process for
35 the board to permit municipalities and agricultural entities to opt out of spraying conducted
36 pursuant to subsection (a); provided, however, that any such process shall require municipalities

37 and agricultural entities to have an alternative mosquito management plan approved by the
38 executive office. The executive office shall also provide guidance to municipalities and
39 agricultural entities on the formation of alternative mosquito management plans. Before
40 approving an alternative mosquito management plan, the executive office may consider the
41 plan's impact on regional mosquito control.

42 (c) Within 30 days after the application of any preventive, management or eradication
43 methods employed pursuant to subsection (a), the board shall provide a report on its website
44 summarizing the specific preventive, management or eradication method used, the areas that
45 were sprayed, the number of applications, the products applied and the results of the actions.

46 (d) All actions taken under the authority of this section shall be designed to protect
47 public health while minimizing, to the extent feasible, any adverse impact to the environment.

48 (e) If aerial spraying must be postponed due to weather conditions, notice provided
49 before application shall remain in effect for 48 hours following the improvement of such weather
50 conditions if postponement of aerial spraying would extend beyond the dates indicated in the
51 initial notice; provided, however, that, to the extent reasonably possible, the board shall make a
52 good faith effort to inform the public of any changes to the aerial spraying schedule.

53 (f) Notwithstanding any general or special law to the contrary, the State Reclamation and
54 Mosquito Control Board shall provide applications to private property owners to opt out of
55 spraying pursuant to 333 CMR 13.03.