

HOUSE No. 3554

The Commonwealth of Massachusetts

PRESENTED BY:

Carolyn C. Dykema

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 to promote economic stimulus in small businesses based on natural resources[PUBLISHED AS CORRECTED].

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bruce E. Tarr</i>	
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Matthew A. Beaton</i>	<i>11th Worcester</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>Geraldine M. Creedon</i>	<i>11th Plymouth</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>

<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>
<i>John D. Keenan</i>	<i>7th Essex</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>
<i>Daniel A. Wolf</i>	
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Karen E. Spilka</i>	
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>

HOUSE No. 3554

By Ms. Dykema of Holliston, a petition (accompanied by bill, House, No. 3554) of Bruce Tarr and others relative to the taxation of persons primarily engaged in agriculture, farming or commercial fishing. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An act to promote economic stimulus in small businesses based on natural resources[PUBLISHED AS CORRECTED].

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 6 of chapter 62 of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by adding the following subsection:-

3 (r) (1) A taxpayer primarily engaged in agriculture or farming, as defined in section 1A of
4 chapter 128, on land zoned according to the first paragraph of section 3 of chapter 40A, or in
5 commercial fishing, which shall include only those landing a minimum of 5,000 pounds of fish
6 per year and possessing either a state or federal fishing permit, shall be allowed a credit as
7 provided in this paragraph against the tax liability imposed by this chapter. The amount of the
8 credit shall be 3 per cent of the cost or other basis for federal income tax purposes of qualifying
9 property acquired, constructed, reconstructed, or erected during the taxable year, after deduction
10 therefrom of any federally authorized tax credit taken with respect to that property. Qualifying
11 property shall be tangible personal property and other tangible property, including buildings and
12 structural components of buildings: (i) acquired by purchase, as defined under 26 U.S.C. section

13 179(d), as amended and in effect for the taxable year; (ii) used solely in agriculture, farming or
14 fishing; (iii) not taxable under chapter 60A; (iv) used by the taxpayer in the commonwealth; (v)
15 situated in the commonwealth on the last day of the taxable year; and (vi) depreciable under 26
16 U.S.C. section 167 and with a useful life of 4 years or more.

17 (2) A taxpayer primarily engaged in agriculture or farming, as defined in section 1A of
18 chapter 128, on land zoned according to the first paragraph of section 3 of chapter 40A, or in
19 commercial fishing, which shall include only those landing a minimum of 5,000 pounds of fish
20 per year and possessing either a state or federal fishing permit, shall be allowed a credit as
21 provided in this paragraph against the tax liability imposed by this chapter. The amount of the
22 credit shall be 3 per cent of the lessor's adjusted basis in qualifying property for federal income
23 tax purposes at the beginning of the lease term, multiplied by a fraction, the numerator of which
24 shall be the number of days of the taxable year during which the lessee leases the qualifying
25 property and the denominator of which shall be the number of days in the useful life of the
26 property. The useful life shall be the same as that used by the lessor for depreciation purposes
27 when computing federal income tax liability. An operating lease shall be any contract or
28 agreement to lease or rent or for a license to use qualifying property. Qualifying property shall
29 be tangible personal property and other personal property, including buildings and structural
30 components of buildings: (i) leased, and not a purchase as defined under 26 U.S.C. section
31 179(d), as amended and in effect for the taxable year, (ii) used solely in agriculture, farming or
32 fishing, (iii) not taxable under chapter 60A, (iv) used by the lessee in the commonwealth, (v)
33 situated in the commonwealth throughout the entire lease term, and (vi) depreciable by the lessor
34 under 26 U.S.C. section 167 and with a useful life of 4 years or more. The credit shall not be

35 available to a lessee if the lessor has previously received a credit with respect to the leased
36 tangible personal property.

37 (3) The commissioner shall by regulation require documentation of the lessor and lessee
38 as to substantiate a credit claimed under paragraph (2).

39 (4) A taxpayer shall not be allowed a credit under paragraphs (1) or (2) with respect to
40 tangible personal property and other tangible property, including buildings and structural
41 components of buildings, which it leases as a lessor. For the purposes of the preceding sentence,
42 any contract or agreement to lease or rent or for a license to use such property shall be
43 considered a lease. This paragraph shall not apply to equine-based businesses where care and
44 boarding of horses is a function of the agricultural activity.

45 (5) With respect to property which is disposed of or ceases to be in qualified use prior to
46 the end of the taxable year in which the credit is to be taken, the amount of the credit shall be that
47 portion of the credit provided for in paragraphs (1) or (2) which represents the ratio which the
48 months of qualified use bear to the months of useful life. If property on which credit has been
49 taken is disposed of or ceases to be in qualified use prior to the end of its useful life, the
50 difference between the credit taken and the credit allowed for actual use must be added back as
51 additional taxes due in the year of disposition; provided, however, if such property is disposed of
52 or ceases to be in qualified use after it has been in qualified use for more than 12 consecutive
53 years, it shall not be necessary to add back the credit, as provided in this subsection. The amount
54 of credit allowed for actual use shall be determined by multiplying the original credit by the ratio
55 which the months of qualified use bear to the months of useful life. For the purposes of this

56 subsection, useful life of property shall be the same as that used by the individual for
57 depreciation purposes.

58 (6) A taxpayer entitled to a credit for any taxable year in accordance with paragraphs (1)
59 to (5), inclusive, may carry over and apply to its tax liability imposed by this chapter for any 1 or
60 more of the next succeeding 3 taxable years, the portion, as reduced from year to year, of its
61 credit which exceeds its tax liability imposed by this chapter for the taxable year.

62 SECTION 2. Section 1 shall be effective for tax years beginning on or after January 1,
63 2012.