

SENATE No. 2443

Senate, July 14, 2016 – Text of amendment (194) (offered by Senator Gobi) to the Ways and Means amendment (Senate, No. 2423) to the House Bill relative to job creation, workforce development and infrastructure investment.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

1 by inserting after section 120 the following sections:-

2 SECTION 121. Section 6C of chapter 20 of the General Laws, as appearing in the 2014
3 Official Edition, is hereby amended by striking out, in line 3, the figure “17” and inserting in
4 place thereof the following figure:- 18.

5 SECTION 122. Said section 6C of said chapter 20, as so appearing, is hereby further
6 amended by inserting after the word “designee”, in line 14, the following words:- ; 1 of whom
7 shall be the commissioner of fish and game, or the commissioner’s designee.

8 SECTION 122A. Said section 6C of said chapter 20, as so appearing, is hereby further
9 amended by inserting after the word “assistance”, in line 50, the following words:- ; 1 of whom
10 shall represent an organization or entity engaged in hydroponic farming or in research related to
11 hydroponic farming; 1 of whom shall represent an organization or entity engaged in aquaponic
12 farming or in research related to aquaponic farming.

13 SECTION 123. Section 23 of said chapter 20, as so appearing, is hereby amended by
14 inserting after the word “by”, in line 22, the following words:- agricultural commissions or.

15 SECTION 124. Chapter 29 of the General Laws is hereby amended by striking out
16 section 2III, as so appearing, and inserting in place thereof the following section:-

17 Section 2III. There shall be a fund to be known as the Agricultural Resolve and Security
18 Fund. The money in this fund shall be expended to foster agriculture, as defined in section 1A of
19 chapter 128, in the commonwealth and for furthering other purposes and programs of the
20 department of agricultural resources as set forth in any general or special law including, but not
21 limited to, agricultural education, support for sustainable agriculture and pollution prevention,
22 agricultural integrated pest management programs, agricultural land preservation, control of
23 animal diseases, emergency preparedness, agricultural innovation, the agricultural food safety
24 improvement program, the farm viability enhancement program and the urban agriculture
25 program.

26 The Agricultural Resolve and Security Fund may receive money from: (i) gifts, grants
27 and donations from public or private sources; (ii) federal reimbursements and grants-in-aid; (iii)
28 revenues retained equal to 10 per cent, but not exceeding \$400,000, of the annual pesticide
29 product registration fees collected pursuant to section 7 of chapter 132B; (iv) any appropriations
30 authorized by the general court specifically designated to be credited to the fund; and (v) any
31 interest earned from the fund. The state treasurer shall be the custodian of the fund and shall
32 receive, deposit and invest all money transmitted under this section to ensure the highest interest
33 rate available consistent with the safety of the fund. The books and records of the fund shall be
34 subject to an annual audit by the state auditor. The department of agricultural resources may
35 expend money in the fund and no expenditure from the fund shall cause it to be in deficiency at
36 the close of a fiscal year. The commissioner of agricultural resources shall report annually to the
37 house and senate committees on ways and means and the joint committee on environment,

38 natural resources and agriculture on income received into the fund and sources of that income,
39 any expenditure from the fund and the purpose of that expenditure and the fund's balance.
40 Money in the fund at the end of the fiscal year shall not revert to the General Fund and shall be
41 available for expenditure in the subsequent year and shall not be subject to section 5C of chapter
42 29.

43 SECTION 125. Said chapter 29 is hereby further amended by inserting after section
44 2RRRR the following section:-

45 Section 2SSSS. (a) There shall be a fund to be known as the Massachusetts Veterans and
46 Warriors to Agriculture Program Fund. The fund shall be administered by the department of
47 agricultural resources. Notwithstanding any general or special law to the contrary, there shall be
48 credited to the fund any revenue from appropriations or other money authorized by the general
49 court and specifically designated to be credited to the fund and any gifts, grants, private
50 contributions or investment income earned by the fund's assets and all other sources. No
51 expenditure from the fund shall cause the fund to be in deficiency at the close of the fiscal year.
52 Money in the fund at the end of the fiscal year shall not revert to the General Fund and shall be
53 available for expenditure in the subsequent year and shall not be subject to section 5C of chapter
54 29.

55 (b) Funds may be expended to enhance the education, training, employment, income,
56 productivity and retention of veterans currently working or aspiring to work in the field of
57 agriculture in the commonwealth. The department of agricultural resources, in consultation with
58 the department of veteran services, shall establish, develop and implement the Massachusetts
59 Veterans and Warriors to Agriculture Program. Amounts credited to the fund shall be used,

60 without further appropriation, for the costs associated with administering and implementing the
61 program and may also be used to provide grants or loans on a competitive basis to public, private
62 and charitable entities to finance projects in furtherance of the Massachusetts Veterans and
63 Warriors to Agriculture Program. Expenditures from the fund for this purpose shall complement
64 and not replace existing local, state, private or federal funding for related training and
65 educational programs.

66 SECTION 126. Chapter 40 of the General Laws is hereby amended by inserting after
67 section 8K the following section:-

68 Section 8L. (a) For the purposes of this section, the terms “farming” and “agriculture”
69 shall have the same meaning as provided in section 1A of chapter 128.

70 (b) A city or town which accepts this section may establish a municipal agricultural
71 commission to promote and develop the agricultural resources of the city or town. A municipal
72 agricultural commission, unless otherwise restricted by law, may: (i) buy, hold, manage, license
73 or lease land for agricultural purposes; (ii) educate the public on agricultural issues; (iii) advocate
74 for farmers, farm businesses and farm interests; (iv) assist farmers in resolving municipal
75 problems or conflicts related to farms; (v) seek to coordinate agricultural related activities with
76 other governmental bodies or unofficial local groups or organizations that promote agriculture;
77 (vi) receive grants, gifts, bequests or devises of personal or monetary property of any nature and
78 interest in real property in accordance with this section; (vii) apply for, receive, expend and act
79 on behalf of the municipality in connection with federal and state grants or programs or private
80 grants related to local agriculture, with the approval of the mayor or city manager in a city or the
81 board of selectmen in a town; and (viii) advertise, prepare, print and distribute books, maps,

82 charts and pamphlets related to local agriculture that the municipal agricultural commission
83 deems necessary for its work.

84 (c) A municipal agricultural commission may conduct research and prepare agriculture
85 related plans, including a comprehensive local agricultural land plan which shall be, to the extent
86 possible, consistent with any current town master plan and regional area plans. The plan shall
87 show or identify: (i) agricultural land areas and facilities; (ii) matters which may be shown on a
88 tract index under section 33 of chapter 184; (iii) acquisitions of interest in land under this
89 section; (iv) municipal lands that are held as open space; (v) non-municipal land subject to legal
90 requirements or restrictions to protect that land or use it for open space, conservation, recreation
91 or agriculture; (vi) land that should be retained as a public necessity for agricultural use; and (vii)
92 any other information that the commission determines to be relevant to local agricultural land
93 use. The commission may amend the plan whenever necessary.

94 (d) The commission may appoint a chair, clerks, consultants and other employees and
95 may contract for materials and services as it may require, subject to appropriation by the
96 municipality.

97 (e) The municipal agricultural commission shall keep accurate records of its meetings and
98 actions and shall file an annual report with the clerk of the municipality. The commission's
99 annual report shall be posted on the municipality's public website and, in a town, shall be printed
100 in the annual town report for that year.

101 (f) A municipal agricultural commission shall consist of not less than 3 nor more than 7
102 members who shall be residents of the municipality. A majority of members shall be farmers or
103 employed in an agriculture related field. In the event that farmers or those employed in

104 agriculture are unavailable to serve on the commission, then the commission shall include a
105 majority of members with knowledge and experience in agricultural practices or knowledge of
106 related agricultural business. Each member of the commission shall serve for a term of 3 years;
107 provided, however, that the initial members appointed under this section shall serve for terms of
108 1, 2 or 3 years and the terms shall be arranged by the appointing authority so that the terms of
109 approximately 1/3 of the commission's members shall expire each year.

110 In a city, the members of the municipal agricultural commission shall be appointed by the
111 mayor, unless otherwise provided by the city's charter; provided, however, that in a city having a
112 Plan D or Plan E charter, the appointments shall be made by the city manager, unless otherwise
113 provided by the city's charter. In a town, the members of the municipal agricultural commission
114 shall be appointed after a public hearing by the board of selectmen; provided, however, that in a
115 town having a manager form of government the appointments shall be made by the town
116 manager subject to the approval of the board of selectmen.

117 A member of a municipal agricultural commission may be removed for cause by the
118 appointing authority after a public hearing, if such hearing is requested by the member. A
119 vacancy created by a member being removed for cause shall be filled by the appointing authority
120 for the unexpired term in the same manner as the original appointment.

121 (g) A municipal agricultural commission may receive gifts, bequests or devises of
122 personal property or interests in real property as described in this subsection in the name of the
123 city or town, subject to the approval of the city council or board of selectmen. The municipal
124 agricultural commission may purchase interests in the land only with funds available to the
125 commission. A city council or a town meeting may raise or transfer funds so that the municipal

126 agricultural commission may acquire in the name of the city or town by option, purchase, lease
127 or otherwise the fee in the land or water rights, conservation or agricultural restrictions,
128 easements or other contractual rights as may be necessary to acquire, maintain, improve, protect,
129 limit the future use of or conserve and properly utilize open spaces in land and water areas within
130 the city or town. The municipal agricultural commission shall manage and control the interests in
131 land acquired under this subsection. The commission shall not take or obtain land by eminent
132 domain.

133 The commission shall adopt rules and regulations governing the use of land and water
134 under its control and prescribe civil penalties, not exceeding a fine of \$100, for any violation
135 thereof.

136 (h) A municipality may appropriate money to an agricultural preservation fund of which
137 the treasurer of the municipality shall be the custodian. The treasurer shall receive, deposit or
138 invest the funds in savings banks, trust companies incorporated under the laws of the
139 commonwealth, banking companies incorporated under the laws of the commonwealth which are
140 members of the Federal Deposit Insurance Corporation or national banks or invest the funds in:
141 (i) paid-up-shares and accounts of and in cooperative banks; (ii) shares of savings and loan
142 associations; or (iii) shares of federal savings and loan associations doing business in the
143 commonwealth. Any income derived from deposits or investments under this subsection shall be
144 credited to the fund. Money in said fund may be expended by the commission for any purpose
145 authorized by this section.

146 SECTION 126A. Section 15 of said chapter 40, as appearing in the 2014 Official
147 Edition, is hereby amended by striking out, in line 4, the words “or right, or part thereof” and

148 inserting in place thereof the following words:- right or restriction, as defined in section 31 of
149 chapter 184, or part of any such land, easement, right or restriction, held by a governmental
150 body.

151 SECTION 127. Chapter 61A of the General Laws is hereby amended by striking out
152 section 4, as so appearing, and inserting in place thereof the following section:-

153 Section 4. (a) For general property tax purposes, the value of land that is not less than 5
154 acres in area and is actively devoted to agricultural or horticultural or agricultural and
155 horticultural uses during the tax year in issue, and has been so devoted for at least the 2
156 immediately preceding tax years, shall, upon application by the owner of the land and approval
157 of that application, be the value of that land for agricultural or horticultural purposes.

158 (b) Land qualifying under subsection (a) shall include: (i) contiguous land under the same
159 ownership that is not committed to residential, industrial or commercial use and which is covered
160 by an application submitted pursuant to section 6; and (ii) noncontiguous land under the same
161 ownership that is not committed to residential, industrial or commercial use and which is covered
162 by an application submitted pursuant to said section 6 if that noncontiguous land is located
163 within a ½ mile of any boundary of other land under the same ownership and it is utilized
164 together with that other land for a unified agricultural, horticultural, agricultural and horticultural
165 or economic purpose. Land shall be deemed contiguous if it is separated from other land under
166 the same ownership by only a public or private way, waterway or an easement for water supply.

167 (c) The acreage of land, which is considered contiguous or non-contiguous for purposes
168 of this chapter, shall not exceed 100 per cent of the acreage which is actively devoted to
169 agricultural, horticultural or agricultural and horticultural uses.

170 (d) The rate of tax applicable to such agricultural or horticultural land shall be the rate
171 determined to be applicable to class 3, commercial property under chapter 59.

172 SECTION 128. Said chapter 61A is hereby further amended by striking out sections 5
173 and 6, as so appearing, and inserting in place thereof the following 2 sections:-

174 Section 5. When land, including any contiguous and noncontiguous land, being used for
175 agricultural, horticultural or agricultural and horticultural purposes is under 1 ownership and is
176 located in more than 1 city or town, compliance with the 5 acre minimum area requirements of
177 section 4 shall be determined on the basis of the entire area of the land and not on the basis of the
178 land area which falls within the bounds of a particular city or town.

179 Section 6. The eligibility of land for valuation, assessment and taxation pursuant to
180 section 4 shall be determined separately for each tax year. An application for eligibility shall be
181 submitted to the board of assessors in the city or town in which the land is situated by not later
182 than December 1 preceding each tax year for which the valuation, assessment and taxation are
183 being sought. The application may not be withdrawn after it is submitted. An application shall
184 be made on a form prescribed by the commissioner of revenue and provided to applicants by the
185 board of assessors. The form shall provide for the reporting of information pertinent to this
186 chapter and of Article XCIX of the Articles of Amendment to the Constitution of the
187 Commonwealth and for certification by the applicant that the applicant will immediately, but not
188 later than December 1 of the following year, notify the board of assessors in writing of any
189 subsequently developing circumstance within the applicant's control or knowledge which may
190 cause a change in use of the land covered by the form. An application submitted under this
191 section for leased land shall be accompanied by a written statement of the lessee's intent to use

192 the land for the purposes in the application and shall be signed by the lessee. The landowner shall
193 certify, in a manner prescribed by the commissioner, that under the penalties of perjury the
194 information in the landowner's application is true. If the application is allowed under section 9,
195 then the classification of the land as actively devoted to agricultural, horticultural or agricultural
196 and horticultural use shall take effect on January 1 preceding the beginning of the tax year to
197 which the application relates and taxation under this chapter shall commence with that tax year.

198 SECTION 129. Section 7 of said chapter 61A, as so appearing, is hereby amended by
199 striking out, in line 3, the words "October first and June thirtieth of the year" and inserting in
200 place thereof the following words:- December 1 and June 30.

201 SECTION 130. Said chapter 61A, as so appearing, is hereby further amended by striking
202 out section 8, as so appearing, and inserting in place thereof the following section:-

203 Section 8. Notwithstanding any provision of this chapter to the contrary, in any tax year
204 for which a city or town has undertaken and completed a program of revaluation of all property
205 in that city or town, applications by landowners for the valuation, assessment and taxation of
206 their lands on the basis of being actively devoted to agricultural or horticultural or agricultural
207 and horticultural use that are filed with the board of assessors by not later than the last day for
208 filing an application for abatement of the tax assessed on the new valuation shall be deemed to
209 have been timely made for the tax year of the revaluation program. If the application is approved
210 and the lands qualify for valuation, assessment and taxation as lands actively devoted to
211 agricultural, horticultural or agricultural and horticultural use in that tax year, then the portion of
212 any tax assessed for that year which is in excess of the tax that would have been assessed on the
213 lands, if the application had been timely made and approved, shall be abated.

214 SECTION 131. Section 14 of said chapter 61A, as so appearing, is hereby amended by
215 striking out the eighteenth paragraph and inserting in place thereof the following paragraph:-

216 The assignment shall be for the purpose of maintaining not less than 70 per cent of the
217 land in use as forest land as defined in section 1 of chapter 61, as agricultural and horticultural
218 land as defined in sections 1 and 2 of this chapter or as recreational land as defined in section 1
219 of chapter 61B, and in no case shall the assignee develop a greater proportion of the land than
220 was proposed by the developer whose offer gave rise to the assignment. All land other than land
221 that is to be developed shall then be bound by a permanent deed restriction that meets the
222 requirements of chapter 184.

223 SECTION 132. Chapter 61B of the General Laws is hereby amended by striking out
224 section 3, as so appearing, and inserting in place thereof the following section:-

225 Section 3. The eligibility of land for valuation, assessment and taxation under this chapter
226 shall be determined separately for each tax year. An application for eligibility shall be submitted
227 to the board of assessors in the city or town in which the land is situated by not later than
228 December 1 preceding each tax year for which the valuation, assessment and taxation is being
229 sought. The application shall be made on a form prescribed by the commissioner of revenue and
230 provided to applicants by the board of assessors. The form shall provide for the reporting of
231 information pertinent to this chapter and for certification by the applicant that the applicant will
232 immediately, but not later than the December 1 of the following year, notify the board of
233 assessors in writing of any subsequent circumstance within the applicant's control or knowledge
234 which may cause a change in use of the land covered by the form. An application submitted
235 under this section for leased land shall be accompanied by a written statement of the lessee's

236 intent to use the land for the purposes in the application and shall be signed by the lessee. The
237 landowner shall certify, in a manner prescribed by the commissioner, that under the penalties of
238 perjury the information in the landowner's application is true. If the application is allowed under
239 section 6, then the classification of the land as recreational land shall take effect on January 1
240 preceding the beginning of the tax year to which the application relates and taxation under this
241 chapter shall commence with that tax year.

242 SECTION 133. Section 4 of said chapter 61B, as so appearing, is hereby amended by
243 striking out, in lines 2 and 3, the words "October first and June thirtieth of the year" and inserting
244 in place thereof the following words:- December 1 and June 30.

245 SECTION 134. Said chapter 61B is hereby further amended by striking out section 5, as
246 so appearing, and inserting in place thereof the following section:-

247 Section 5. Notwithstanding any provision of this chapter to the contrary, in any tax year
248 for which a city or town has undertaken and completed a program of revaluation of all property
249 in that city or town, applications by landowners for the valuation, assessment and taxation of
250 their lands on the basis of being maintained in recreational use that are filed with the board of
251 assessors by not later than the last day for filing an application for abatement of the tax assessed
252 on the new valuation shall be deemed to have been timely made for the tax year of the
253 revaluation program. If the application is approved and the lands qualify for valuation,
254 assessment and taxation as lands actively devoted to agricultural, horticultural or agricultural and
255 horticultural use in that tax year, then the portion of any tax assessed for that year which is in
256 excess of the tax which would have been assessed on the lands, if the application been timely
257 made and approved, shall be abated.

258 SECTION 135. Section 6 of said chapter 61B, as so appearing, is hereby amended by
259 striking out, in line 13, the words “a disallowance”, and inserting in place thereof the following
260 words:- an allowance.

261 SECTION 136. Section 9 of said chapter 61B, as so appearing, is hereby amended by
262 striking out the eighteenth paragraph and inserting in place thereof the following paragraph:-

263 The assignment shall be for the purpose of maintaining not less than 70 per cent of the
264 land in use as forest land as defined in section 1 of chapter 61, as agricultural and horticultural
265 land as described in sections 1 and 2 of chapter 61A or as recreation land as described in section
266 1 of this chapter and the assignee shall not develop a greater proportion of the land than was
267 proposed by the developer whose offer gave rise to the assignment. All land other than land that
268 is to be developed shall then be bound by a permanent deed restriction that meets the
269 requirements of chapter 184.

270 SECTION 137. Chapter 94 of the General Laws is hereby amended by inserting after
271 section 13E the following section:-

272 Section 13F. (a) A dairy farmer manufacturing raw milk for human consumption shall be
273 licensed under section 16A of chapter 94 and section 5 of chapter 94A. A licensed raw milk
274 farmer may deliver raw milk directly to a consumer, off-site from the farm, if the raw milk
275 farmer has a direct, contractual relationship with the consumer. The raw milk farmer may
276 contract with a third party for such delivery; provided, however, that the raw milk farmer shall
277 maintain the contractual relationship with the consumer. The raw milk farmer may deliver raw
278 milk through a community supported agriculture, or CSA, delivery system; provided, however,
279 that the raw milk farmer shall maintain a contractual relationship with the consumer. Delivery

280 may be made directly to the consumer's residence or to a pre-established receiving site. A
281 receiving site shall not be in a retail setting with the exception of a CSA delivery. In such
282 instances, raw milk shall be kept separate from retail items for sale and shall not be accessible to
283 the general public.

284 (b) A raw milk farmer may sell raw milk from the farmer's farm stands even if not
285 contiguous to the farmer's raw milk dairy; provided however, the farmer shall comply with
286 section 3 of chapter 40A .

287 (c) The department of agricultural resources and the department of public health, acting
288 jointly, shall adopt and promulgate rules and regulations governing the handling, packaging,
289 storage, testing and transportation of raw milk; provided, however, that any delivery vehicle
290 transporting raw milk shall comply with the inspection requirements set forth in sections 33, 35
291 and 40.

292 (d) The label on any raw milk sold pursuant to this section shall contain: (i) the identity
293 of the farm where the raw milk was packaged, including the licensee's name, address and license
294 number; and (ii) the following warning: "Raw milk is not pasteurized. Pasteurization destroys
295 organisms that may be harmful to health."

296 SECTION 137A. Section 31 of chapter 111 of the General Laws, as appearing in the
297 2014 Official Edition, is hereby amended by inserting after the first paragraph the following
298 paragraph:-

299 In a city or town with a municipal agricultural commission, as defined in section 8L of
300 chapter 40, the board of health in that city or town shall, during the publication period, solicit and

301 consider comments submitted by the municipal agricultural commission on regulations that have
302 an impact on farming or agriculture as defined in section 1A of chapter 128.

303 SECTION 137B. Section 1 of chapter 128, as appearing in the 2014 Official Edition, is
304 hereby amended by inserting after the definition of “Nursery stock” the following 2 definitions:-

305 “Recyclable paper bag”, a paper bag that is 100 per cent recyclable and has the words
306 “Recyclable” and “Reusable” in a clearly visible manner on the outside of the bag.

307 “Reusable Bag”, a bag with handles that is specifically designed and manufactured to be
308 used multiple times and is made of cloth, industrial vinyl or other machine washable fabric
309 suitable to be used at least 125 times.

310 SECTION 137C. Said section 1 of said chapter 128, as so appearing, is hereby further
311 amended by inserting after the definition of “Riding school operator” the following definition:-

312 “Single-use plastic carryout bag”, a non-reusable bag made of plastic that is provided to a
313 customer by a store at the point of sale.

314 SECTION 138. Section 1A of said chapter 128, as so appearing, is hereby amended by
315 adding the following definition:-

316 “Farmers’ market”, a building, structure or market that is used by 2 or more farmers for
317 the direct sale of food crops and other farm related or locally hand crafted items to the public that
318 operates or occurs more than once per year for the primary purpose of promoting goods
319 produced in the commonwealth; provided, however, that the origin of all products is clearly
320 identified.

321 SECTION 138A. Said chapter 128 is hereby further amended by inserting after section
322 1A the following section:-

323 Section 1B. A vendor at a farmers' market shall not provide a single-use plastic carryout
324 bag to a customer at the point of sale; provided, however, that a plastic bag without handles that
325 is used to protect items from damage or from damaging or contaminating other purchased items
326 or to contain an unwrapped food item may be distributed to a customer by a vendor at the point
327 of sale.

328 Recyclable paper bags shall be provided without cost to customers upon request and
329 reusable bags may be offered for sale or provided without cost to customers, subject to
330 regulations by the department.

331 SECTION 138B. Section 2 of said chapter 128, as appearing in the 2014 Official Edition,
332 is hereby amended by adding the following subsection:-

333 (l) Promulgate regulations on product signage at farmers' markets to identify the
334 producer or source of each product including if the product was grown, raised or made
335 exclusively by the vendor and if the product was grown, raised or made exclusively in the
336 commonwealth. The commissioner may develop enforcement mechanisms to ensure compliance
337 with this subsection.

338 SECTION 139. Section 46 of chapter 132 of the General Laws, as so appearing, is hereby
339 amended by striking out, in lines 12 and 13, the words "on June thirtieth of each year" and
340 inserting in place thereof the following words:- 3 years after the date the license was issued to
341 the timber harvester.

342 SECTION 140. Section 49 of said chapter 132, as so appearing, is hereby amended by
343 striking out, in line 8, the words "annually on the anniversary date of the license granted for said"
344 and inserting in place thereof the following words:- 3 years after the date the license was issued
345 to the.

346 SECTION 141. Section 50 of said chapter 132, as so appearing, is hereby amended by
347 striking out, in lines 7 and 8, the words "Massachusetts Association of Professional Foresters"
348 and inserting in place thereof the following words:- Massachusetts Forest Alliance Limited.

349 SECTION 142. Chapter 132A of the General Laws is hereby amended by inserting after
350 section 2D the following 2 sections:-

351 Section 2E. (a) The commissioner of conservation and recreation shall develop a
352 program to promote the use of designated land in state-owned parks and reservations throughout
353 the commonwealth for community gardens. Lands so designated shall be restricted to
354 noncommercial, horticultural uses of growing and harvesting food crops by residents of local
355 communities.

356 Community gardens shall be established as authorized by the commissioner, in open
357 spaces that are suitable for noncommercial gardening activities accessible to the public.
358 Improvements to community garden lands shall, to the extent practicable, preserve the natural
359 state of the park and reservation areas.

360 Under the program, specific planting areas available within designated community
361 garden sites shall be allotted for personal use on a seasonal basis by permits issued to qualifying
362 residents of the community.

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

365 (b) The commissioner may license cities and towns to establish, improve, maintain,
366 operate and access local community gardens on designated department land. The licenses shall
367 be granted upon such terms, restrictions and agreements and for such period of years, not
368 exceeding 10 years, as the commissioner deems appropriate; provided, however, that the land
369 licensed shall be utilized for the department's community garden program and such use shall be
370 consistent with the applicable rules and regulations of the department; and provided further, that
371 under any such license, a city or town may be responsible for the costs and expenses, or portion
372 thereof, to establish, improve, maintain and operate community gardens.

373 A city or town applying for a license to use department lands under the community
374 garden program shall submit a plan related to such use and the plan shall be subject to approval
375 by the commissioner.

376 (c) The commissioner may license qualified nonprofit organizations to establish,
377 improve, maintain, operate and access community gardens on designated department land. The
378 licenses shall be granted upon such terms, restrictions and agreements and for such period of
379 years, not exceeding 5 years, as the commissioner deems appropriate; provided, however, that
380 the land shall be used for the department's community garden program and such use shall be
381 consistent with the applicable rules and regulations of the department. Licenses shall be granted
382 based on a competitive application and proposal process. A license shall not be granted to a
383 nonprofit organization for designated land unless the commissioner has first provided the city or

384 town where the available land is located with the option to be granted a license for such
385 community garden site.

386 (d) Cities and towns and nonprofit organizations, as part of the terms of such licenses,
387 shall abide by the rules and regulations adopted by the department relating to the use and
388 operation of community garden lands.

389 Licenses granted for community garden lands under this section shall be revocable at any
390 time by the commissioner for the failure of a recipient city or town or nonprofit organizations to
391 comply with the license terms, restrictions and agreements.

392 The granting of a license under this section shall not be construed to confer on the city or
393 the nonprofit organization any title, right to acquire title or ownership interest in licensed lands.
394 This subsection shall not prohibit the commissioner from leasing such lands to municipalities or
395 qualified nonprofit organizations under applicable law for the purposes of the community garden
396 program.

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

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

405 Section 2F. The commissioner of conservation and recreation shall develop a program to
406 promote the seasonal use of areas in state-owned parks and reservations for farmers' markets as
407 defined in section 1A of chapter 128. The farmers' market shall promote food and other
408 agricultural products that are grown, raised or produced on farms in the commonwealth.

409 The temporary establishment of a farmers' market as approved by the commissioner shall
410 be at suitable land and parking areas accessible by the public and at appropriate times during
411 daylight hours. Under the program, the commissioner may issue special seasonal permits to
412 farmer vendors, which shall be restricted to specific approved public market sites and times, and
413 shall be upon such terms and conditions as the commissioner may deem appropriate. As a
414 condition of the issuance of a permit, a farmer vendor shall be required to comply with any laws
415 and regulations applicable to the vending of food and agricultural products at the farmers'
416 market. A farmer vendor shall not engage in the preparation or sale of value-added agriculture
417 products or food without a license and inspection by the local board of health pursuant to state
418 and federal food safety regulations.

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

421 The commissioner, in consultation with the commissioner of agricultural resources, shall
422 adopt rules and regulations for conducting farmers' markets.

423 Farmers' markets allowed pursuant to this section shall not be subject to the commercial
424 limitations in section 2B.

425 SECTION 143. Chapter 138 of the General Laws, as appearing in the 2014 Official
426 Edition, is hereby amended by striking out section 15F and inserting in place thereof the
427 following section:-

428 Section 15F. Notwithstanding any other provision of this chapter, in any city or town
429 wherein the granting of licenses to sell wines and malt beverages is authorized under this
430 chapter, the local licensing authority may issue to an applicant authorized to operate a farmer-
431 winery under section 19B a special license for the sale of wine produced by or for the licensee or
432 to an applicant authorized to operate a farmer-brewery under section 19C a special license for the
433 sale of malt beverages produced by or for the licensee and, in any city or town wherein the
434 granting of licenses to sell all alcoholic beverages is authorized under this chapter, the local
435 licensing authority may issue to an applicant authorized to operate a farmer-distillery under
436 section 19E a special license for the sale of distilled spirits produced by or for the licensee, in
437 sealed containers, for off-premises consumption at an indoor or outdoor agricultural event.

438 All sales of alcoholic beverages shall be conducted by the licensee or by an agent,
439 representative or solicitor of the licensee to customers who are at least 21 years of age. A
440 licensee under this section may provide, without charge, samples of its alcoholic beverages to
441 prospective customers at an indoor or outdoor agricultural event. All samples shall be served by
442 the licensee or by an agent, representative or solicitor of the licensee to individuals who are at
443 least 21 years of age and all samples shall be consumed in the presence of such licensee or in the
444 presence of an agent, representative or solicitor of the licensee; provided, however, that no
445 sample of wine shall exceed 1 ounce, no sample of malt beverages shall exceed 2 ounces and no
446 sample of distilled spirits shall exceed 1/4 ounce; and provided further that not more than 5
447 samples shall be served to an individual prospective customer. For the purposes of this section,

448 “agricultural event” shall be limited to those events certified by the department of agricultural
449 resources as set forth in this section.

450 An applicant for a special license under this section shall first submit a plan to the
451 department of agricultural resources that shall demonstrate that the event is an agricultural event.
452 The plan shall include a description of the event, the date, time and location of the event, a copy
453 of the operational guidelines or rules for the event, written proof that the prospective licensee has
454 been approved as a vendor at the event, including the name and contact information of the on-
455 site manager, and a plan depicting the premises and the specific location where the license shall
456 be exercised.

457 Upon review of the plan, the department may certify that the event is an agricultural
458 event; provided, however, that in making that determination, the department shall consider the
459 following factors: (i) operation as a farmers' market or agricultural fair approved or inspected by
460 the department; (ii) frequency and regularity of the event, including dates, times and locations;
461 (iii) number of vendors; (iv) terms of vendor agreements; (v) presence of an on-site manager;
462 (vi) training of the on-site manager; (vii) operational guidelines or rules which shall include
463 vendor eligibility and produce source; (viii) focus of event on local agricultural products grown
464 or produced within the market area; (ix) types of shows or exhibits, including those described in
465 subsection (f) of section 2 of chapter 128; and (x) sponsorship or operation by an agricultural or
466 horticultural society organized under the laws of the commonwealth, or by a local grange
467 organization or association which has a primary purpose of promoting agriculture and its allied
468 industries. The department of agricultural resources may promulgate rules and regulations
469 necessary for the operation, oversight, approval and inspection of agricultural events under this
470 section.

471 An applicant for a special license under this section shall file with the local licensing
472 authority along with its application proof of certification from the department of agricultural
473 resources that the event is an agricultural event. A special license under this section shall
474 designate the specific premises and the dates and times covered. A special license may be
475 granted for an indoor or outdoor agricultural event which takes place on multiple dates or times
476 during a single calendar year but no special license shall be granted for an agricultural event that
477 will not take place within 1 calendar year. The special license shall be conspicuously displayed at
478 the licensed premises. A copy of a special license granted by the local licensing authority shall
479 be submitted by the authority to the commission at least 7 days before the date the agricultural
480 event is first scheduled to begin. The local licensing authority may charge a fee for each special
481 license granted but such fee shall not exceed \$50. A special license granted under this section
482 shall be nontransferable to any other person, corporation or organization and shall be clearly
483 marked "nontransferable" on its face.

484 The commission may promulgate rules and regulations as it deems appropriate to
485 effectuate this section.

486 A special license under this section may be granted by the local licensing authorities for a
487 portion of premises that are licensed under section 12; provided, however, that: (i) the holder of
488 the special license shall document the legal basis for use of the section 12 licensed premises; (ii)
489 the area in which the special license is to be approved shall be physically delineated from the
490 area remaining under the control of the section 12 license holder; (iii) the holder of the special
491 license shall be solely liable for all activities that arise out of the special license; and (iv) the
492 holder of the special license shall not pay any consideration, directly or indirectly, to the section
493 12 license holder for the access to or use of the section 12 licensee's premises.

494 SECTION 144. Section 7B of chapter 242 of the General Laws, as so appearing, is
495 hereby amended by striking out subsection (a) and inserting in place thereof the following
496 subsection:-

497 (a) Any person who: (i) operates an off-highway or recreational vehicle in a manner that
498 damages or destroys a field crop product or agricultural property situated on the land of another;
499 or (ii) without the permission of the owner, willfully and intentionally removes, damages or
500 destroys a field crop product or property used primarily for agricultural purposes situated on the
501 land of another shall be liable to the owner of such product or property in tort.

502 SECTION 145. Said section 7B of said chapter 242, as so appearing, is hereby further
503 amended by striking out, in line 25, the words “Section 1A of chapter 128” and inserting in place
504 thereof the following words:- section 1A of chapter 128 or any forest product produced on land
505 under a certified forest management plan.

506 SECTION 146. Said section 7B of said chapter 242, as so appearing, is hereby further
507 amended by inserting after the word “structure”, in line 27, the following words:- or device.

508 SECTION 147. (a) Notwithstanding any general or special law to the contrary, the board
509 of state examiners of plumbers and gas fitters shall conduct a review of the rules and regulations
510 of the Uniform State Plumbing Code under 248 CMR 10.00 to consider amending the code, to
511 provide separate regulatory provisions specific to buildings and operations related to farming as
512 defined in section 1A of chapter 128 of the General Laws. Amendments to the code adopted by
513 the board pursuant to this act shall be consistent with subsection (c).

514 (b) There shall be established an advisory committee to make recommendations to the
515 board of state examiners of plumbers and gas fitters for amendments to the Uniform State

516 Plumbing Code under 248 CMR 10.00 to adopt separate regulatory provisions specific to
517 buildings and operations related to farming. The advisory committee shall consist of: the
518 chairperson of the board of state examiners of plumbers and gas fitters, or designee, who shall
519 serve as a co-chair of the advisory committee; the commissioner of agricultural resources, or
520 designee, who shall serve as a co-chair of the advisory committee; the commissioner of public
521 health or designee; the chair of the Northeast Regional Coalition of the International Code
522 Council or designee; 1 person shall be appointed by the governor who shall be employed as a
523 municipal plumbing inspector for at least 10 years and who has no other financial interest related
524 to the plumbing business; and 2 person to be appointed by the commissioner of agricultural
525 resources, of whom 1 shall be a farmer and a member of the Massachusetts Farm Bureau
526 Federation and 1 shall be an organic farmer and a member of the Northeast Organic Farming
527 Association/Massachusetts Chapter.

528 Recommendations by the advisory committee to amend the code shall be based on
529 standards that: (i) protect the public's health and safety; (ii) preserve the environment; (iii)
530 provide alternative plumbing practices and methods which are reasonable, suitable and effective
531 for farming buildings and operations; and (iv) promote farming development by reducing
532 requirements that are unnecessarily excessive or costly, to achieve intended purposes in farming
533 applications. The advisory committee, as a part of such recommendations, shall provide
534 proposals for specific amendments to the code.

535 The advisory committee shall submit its written recommendations to the board for review
536 within 12 months after the effective date of this act. A copy of the recommendations shall be
537 submitted to the senate and house chairs of the joint committee of environment, natural resources
538 and agriculture.

539 (c) Within 6 months after the board receives the advisory committee's recommendations,
540 the board shall complete its review of the code and any recommendations. Determinations by the
541 board to amend the code to adopt separate provisions specific to farming buildings and
542 operations shall take into consideration the recommendations of the advisory committee. If the
543 board decides to amend the regulations under the code, it shall, within 30 days of completing its
544 review, provide notice under sections 2 and 3 of chapter 30A.

545 If the board rejects, in whole or part, the recommendations of the advisory committee, the
546 board shall submit a report within 30 days after completing its review. The report shall detail the
547 specific reasons for rejecting the advisory committee's recommendations to the senate and house
548 chairs of the joint committee of environment, natural resources and agriculture.

549 SECTION 148. (a) Notwithstanding any general or special law to the contrary, the
550 secretary of energy and environmental affairs, in consultation with the farmland protection and
551 viability advisory commission established into subsection (b), shall develop a farmland action
552 plan. The plan shall set forth the commonwealth's goals, priorities and recommended actions for
553 farmland protection and access to reflect the importance of farmlands of the commonwealth to its
554 citizens who derive their livelihoods from farming and the importance of protected farmland for
555 ecosystem health and biodiversity.

556 The plan shall include, but not be limited to: (i) an inventory of state land in active
557 agricultural production or that is potentially suitable for farming; (ii) a review of state agency
558 policies related to the use or lease of land for farming and recommendations related to state
559 policies for the use and lease of state-owned land for farming; (iii) an analysis of recent trends
560 and potential threats related to farmland loss and conversion and its recommendations, including

561 resources necessary to improve state data collection for farmland trends and to establish a system
562 for tracking acres of farmland in production over time; (iv) recommended statutory, regulatory or
563 policy revisions to the agricultural preservation restriction program to support the long-term
564 economic viability of protected farms, to address housing needs and to ensure the program is
565 managed in a transparent and consistent manner and with policies that keep pace with changes in
566 agriculture and associated markets; (v) an analysis of farmland enrolled in a program under
567 chapter 61A of the General Laws and recommendations for improving enrollment of farmland in
568 the program; and (vi) measurable statewide goals and benchmarks related to farmland
569 conversion, farmland protection and farmland access and recommendations for state policy
570 changes and program funding levels to meet these goals and benchmarks. The plan may include
571 maps, illustrations and other media and shall be based on best available science and best
572 management practices.

573 (b) There shall be a farmland protection and viability advisory commission to assist the
574 secretary in developing the farmland action plan. The commission shall consist of: 2 members of
575 the senate or a designee, 1 of whom shall be appointed by the minority leader; 2 members of the
576 house of representatives or a designee, 1 of whom shall be appointed by the minority leader; 1
577 member of the board of food and agriculture, as elected by the board of food and agriculture for
578 this purpose who shall chair the commission; the commissioner of agricultural resources or a
579 designee; a representative of the Center for Agriculture, Food and the Environment at the
580 University of Massachusetts at Amherst; a representative of the Massachusetts Farm Bureau
581 Federation; a representative of The Trustees of Reservations; a representative of the American
582 Farmland Trust; and 3 persons to be appointed by the governor, 1 of whom shall be a farmer, 1

583 of whom shall be a representative of an urban agriculture organization and 1 of whom shall be a
584 representative of a farmland access organization.

585 The advisory commission shall meet at least quarterly and otherwise at the discretion of
586 the chair. The commission shall make recommendations to the secretary for the proper
587 management and development of the farmland action plan. The secretary shall consider the
588 recommendations of the commission.

589 (c) The farmland action plan shall be delivered to the joint committee on environment,
590 natural resources and agriculture not later than December 31, 2017. The executive office of
591 energy and environmental affairs and the department of agricultural resources shall provide
592 technical support to the commission.

593 (d) The secretary shall develop and implement a public outreach and information
594 program to provide information to the public regarding the farmland action plan.

595 SECTION 149. Notwithstanding any general or special law to the contrary, the state
596 board of building regulations and standards shall amend the state building code to include rain
597 sensor devices for newly-installed or renovated residential outdoor landscape sprinkler systems.

598 SECTION 149A. There shall be an advisory committee to study methods to encourage
599 development of domestic farms as well as the production and use of locally grown ingredients
600 for wine, beer and spirits. The committee shall consist of 1 representative of the Massachusetts
601 Brewers Guild, Inc.; 1 representative of the alcoholic beverages control commission; the
602 commissioner of agricultural resources or a designee, who shall serve as chair of the advisory
603 committee; the house and senate chairs of the joint committee on environment, natural resources
604 and agriculture or their designees; the house and senate chairs of the joint committee on

605 consumer protection and professional licensure or their designees; the minority leader of the
606 senate or a designee; the minority leader of the house of representatives or a designee; a
607 representative of the Massachusetts Farm Bureau Federation, Incorporated; a representative of
608 the Federation of Massachusetts Farmers Markets; and 4 persons to be appointed by the
609 governor, 2 of whom shall be representatives of licensed farmer-breweries, 1 of whom shall be a
610 representative of a licensed farmer-winery and 1 of whom shall be a representative of a licensed
611 farmer-distillery. The advisory committee shall make recommendations to the general court
612 including, but not be limited to, standard requirements or goals for farmer-wineries, farmer-
613 breweries and farmer-distilleries related to the growth of locally grown ingredients and the
614 amount of barrel production. The advisory committee shall conduct a comprehensive review and
615 evaluation of the production of ingredients and the ingredients used by existing farmer-wineries,
616 farmer-breweries and farmer-distilleries. The advisory committee shall submit its findings and
617 recommendations to the clerks of the senate and the house of representatives, the alcoholic
618 beverages control commission and the executive office of energy and environmental affairs by
619 not later than March 1, 2017.

620 SECTION 149B. The department of agricultural resources, in collaboration with The
621 Center for Agriculture, Food and the Environment at the University of Massachusetts at
622 Amherst, shall conduct a cost-benefit analysis on the effects of adding hydroponic and aquaponic
623 farming methods to the definition of “farming” or “agriculture” under section 1A of chapter 128
624 of the General Laws. The department shall submit a final report that includes the results of its
625 cost-benefit analysis and the department’s recommendations, if any, to the clerks of the senate
626 and house of representatives and the joint committee on environment, natural resources and
627 agriculture by not later than December 31, 2016.

628 SECTION 149C. (a) There shall be a special commission established pursuant to section
629 2A of chapter 4 to investigate and study methods and solutions to protect and promote
630 pollinators' health. The commission shall consist of: 1 member of the senate; 1 member of the
631 house of representatives; 1 member of the senate appointed by the minority leader of the senate;
632 1 member of the house of representatives appointed by the minority leader of the house of
633 representatives; the secretary of energy and environmental affairs or a designee, who shall serve
634 as chair; 6 people to be appointed by the governor, 1 of whom shall be a University of
635 Massachusetts faculty member specializing in the science of pollinator health, 1 of whom shall
636 represent an advocacy group for farmers, 1 of whom shall represent an advocacy group for
637 organic farmers, 1 of whom shall represent an advocacy group for cranberry producers, 1 of
638 whom shall be a commercial beekeeper, 1 of whom shall be a representative of the University of
639 Massachusetts Extension with knowledge in crops which rely on pollinators and pollinator
640 health; and 6 people to be appointed by the attorney general, 1 of whom is certified as a master
641 gardener representing the public, 1 of whom shall represent an advocacy group dedicated to the
642 protection of pollinators and invertebrates, 2 of whom shall be beekeepers representing the
643 county beekeeping associations, 1 of whom shall represent an advocacy group for nurseries and
644 1 of whom shall represent an advocacy group dedicated to environmental protection.

645 (b) The special commission shall examine issues relevant to pollinator health, including:

- 646 (i) studying current regulations in the commonwealth and other states and countries related to
- 647 pollinators and pollinator health; (ii) studying public education and outreach plans regarding
- 648 pollinator health that have been successful in other states; (iii) evaluating the current apiary
- 649 inspection program with specific focus on parasitic diseases; (iv) identifying adequacy of
- 650 funding for efforts to promote or protect pollinator health; (v) investigating other methods to

651 increase and strengthen pollinator vitality including proposed changes in law or regulation; (vi)
652 investigating the means used by other states to gather data on populations of pollinators; (vii)
653 evaluating existing best management practices for promoting pollinator health including, but not
654 limited to, foraging and proper food source diversity; (viii) evaluating proposed pollinator
655 protection plans; and (ix) studying the use of nonagricultural lands and how those lands may be
656 used to provide pollinator forage and unique opportunities to increase pollinator populations.

657 (c) The special commission may take actions necessary and proper to carry out the work
658 of the commission including, but not limited to, scheduling hearings and taking testimony on
659 matters related to pollinator health.

660 (d) The special commission shall defer to the pesticide board on matters regarding the
661 regulation, review and use of pesticides under chapter 132B, including, but not limited to the
662 regulation, review or use of neonicotinoids.

663 (e) No later than June 30, 2017, the special commission shall submit a report to the clerks
664 of the senate and house of representatives and to the joint committee on environment, natural
665 resources and agriculture detailing the results of its investigation and study and provide
666 recommendations, together with drafts of legislation.

667 SECTION 150. A municipal agricultural commission duly formed prior to the effective
668 date of this act shall have the authority as provided in section 8L of chapter 40 of the General
669 Laws without further action to accept said section 8L of said chapter 40.

670 SECTION 151. Sections 127 to 136, inclusive, shall be effective for tax years beginning
671 on or after January 1, 2017.

672 SECTION 152. The regulations required to be promulgated pursuant to sections 137, 142
673 and 149 shall be completed not later than 270 days after the effective date of this act.

674 SECTION 153. Sections 137B, 137C and 138A shall take effect on May 1, 2017.