

# THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



## Department of Agricultural Resources

251 Causeway Street, Suite 500, Boston, MA 02114  
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lt. Governor

MATTHEW A. BEATON  
Secretary

JOHN LEBEAUX  
Commissioner

**FINAL**  
**Meeting Minutes Board of Agriculture**  
**Big E, Massachusetts State Exposition Building**  
**West Springfield, MA**  
**9/22/16**

**Board Members in Attendance:** Judy Leab, Fred Dabney, Michael Smolak, Lucinda Williams, Lydia Sisson, Laura Sapienza-Grabski, Donald R. Chase, Allison Carr, Michelle Harvey and Commissioner John Lebeaux.

1. **Call to Order:** Chairwoman Leab called the meeting to order at 10:40AM.
2. **Attendance:** Chairwoman Leab noted the Board has a quorum.
3. **Minutes Summary:** The Board considered for approval the meeting minutes of 08/11/16.  
**Action Taken:** The Board noted that the APR recommendations handout provided by Laura Sapienza-Grabski at the August meeting should be noted in the minutes and attached. Mr. Smolak made a motion to approve the meeting minutes as amended. The motion was seconded by Mr. Chase and the minutes were unanimously voted for approval with the amended corrections.
4. **New Business:**  
**Commissioner's Report:** Commissioner Lebeaux provided the Board a copy of his report (attached) and reported on the following items: staffing updates, budget updates, FY17 status of grants and the grant map. The Commissioner provided an update on drought conditions and the economic impacts on agriculture, updates on the food action plan and the food safety modernization act. The Commissioner's report concluded with legislative updates and an update on the regulatory review and the schedule for public hearings.

**Discussion:** Throughout and following the Commissioner's report Board members discussed some of the various topics. After the budget report the Board had some additional questions on budget matters including funding for the APR program. The Commissioner and staff were able to answer many of the Board's questions including that the APR program is funded from both capital and federal funds. At the next meeting, MDAR expects to have an update on funding levels for this fiscal year for the APR program with a breakout of how much funding will come from capital and federal funds. Next, the Board asked the Commissioner about the new public records law. MDAR's Tara Zadeh explained some of the requirements of the new law. Chairwoman Leab asked the definition of urban agriculture and inquired as to how the program is funded as she noted its \$500,000 budget. After further discussion the Board planned for the next meeting to be organized around an urban agriculture tour and presentation by Lydia Sisson and MDAR's program coordinator Rose Arruda. Trust funds, Mr. Dabney asked about the Homeless Animal Prevention and Care Fund. The Commissioner and staff explained how the program is funded through voluntary donations via a tax check-off for MA residents and that the program helps offset the cost of spaying/neutering animals. The program also provides training to animal control officers. Following a discussion about the State Expo Building Maintenance Fund ensued. Mr. Chase and Ms. Williams had various questions about the fund and the use of the building when the Big E is not going on. The Commissioner advised that we'll have to report back on the fund and that the

department is working to make the building a green building. During the off-season the building is used for various events, meetings and for staff to work out of throughout the year.

Secretary Beaton stopped by the Ag Board meeting and spoke with the Board. The Board asked the Secretary questions about the new public records law and expressed some concerns for MDAR's resources. The Board also asked about increased funding for the Agriculture Environmental Enhancement Program (AEEP) to assist farmers with drought mitigation. Ms. Sapienza-Grabski discussed ballot question #3 Conditions for Farm Animals and asked if there is a possibility for an ad hoc committee for livestock care standards and noted the Division of Animal Health housed within MDAR. Chairwoman Leab remarked that all the farmers are concerned about the drought. Ms. Harvey noted that the drought has been very harsh on the nursery and landscape industry with early, substantial layoffs. This in turn is creating low tax receipt and unemployment with both large scale and small businesses impacted. The Secretary identified with the Board's concerns and expressed his concerns as well. The Commissioner updated the Board on how the process for federal declaration of an emergency in regards to drought works and explained how the process has changed over time. Shortly after the Commissioner's report an email came in from the USDA's Farm Service Agency to Governor Baker declaring 11 MA counties as primary natural disaster areas due to the 2016 drought.

The Commissioner noted that there is no action by a state official that changes what the federal declaration will do. The Board was provided an update on when upcoming public hearings for plant nutrient regulations were taking place. Ms. Sapienza-Grabski asked about the APR regulations and Ms. Zadeh explained the change in regulation was to make the regulation consistent with the ALPC's new statutory authority and otherwise streamline the regulation.

**Action Taken:** None.

5. **Insect Control, West Nile Virus (WNV):** MDAR's Ms. Bouchard reported that WNV continues to be found throughout MA. In an effort to control mosquitoes carrying WNV Mosquito control districts are continuing with Ultra Low Volume adulticide (spray) operations where feasible. In addition, the districts are working with the towns boards of health on public outreach to educate the public about how to avoid mosquito bites. October 6<sup>th</sup> is the last date mosquito control districts will submit mosquito samples to the MA Department of Public Health for virus testing.

**Action Taken:** None.

#### **Old Business:**

6. **Comments on Laura Sapienza-Grabski APR Handout:** Tabled until next meeting.
7. **Status of New Board Members:** The Commissioner advised the Board that he is in contact with the Office of Board and Commissions and that Ms. Shani Fletcher from the Urban Agriculture sector has been appointed to the Board.
8. **Other Business:** Ms. Sapienza-Grabski provided the Board a handout regarding Farm Animal Regulations (attached). **Action Taken:** Ms. Sapienza-Grabski made motion that the Board of Agriculture make a recommendation to the Administration that they seek to create an ad hoc Livestock Care and Standards Commission aligned with H713. The motion was seconded by Ms. Williams in order to have a discussion about the motion. **Discussion:** Mr. Smolak asked what this is about. Ms. Sapienza-Grabski responded that the ballot question doesn't alleviate it all and that an ad hoc Commission is just something to help get this together. Ms. Sapienza-Grabski read the legislation aloud and noted it requires MDAR to come up regulations under the proposed bill. Ms. Williams said she would like time to read this and think about it. Commissioner Lebeaux told the Board MDAR is working on something similar. Ms. Sapienza-Grabski read H713 to the Board. **Action Taken:** The vote was unanimously approved with no abstention.

Chairwoman Leab discussed whether the Farm Viability Program could incorporate the cranberry industry. The Chairwoman said she would like farmers on the review committee.

9. **Date, Time and Location of Next Meeting:** The Board discussed having its next meeting on 11/9/16 at the Northeast Greenhouse conference in Boxborough. Ms. Sission and Alisha were also going to connect to plan an October urban agriculture tour for the Board. **Action Taken:** None.

10. **Adjournment:** Action Take: Mr. Smolak made a motion to adjourn the meeting. The motion was seconded by Mr. Chase. The Board voted unanimously to adjourn the meeting at 12:42pm.

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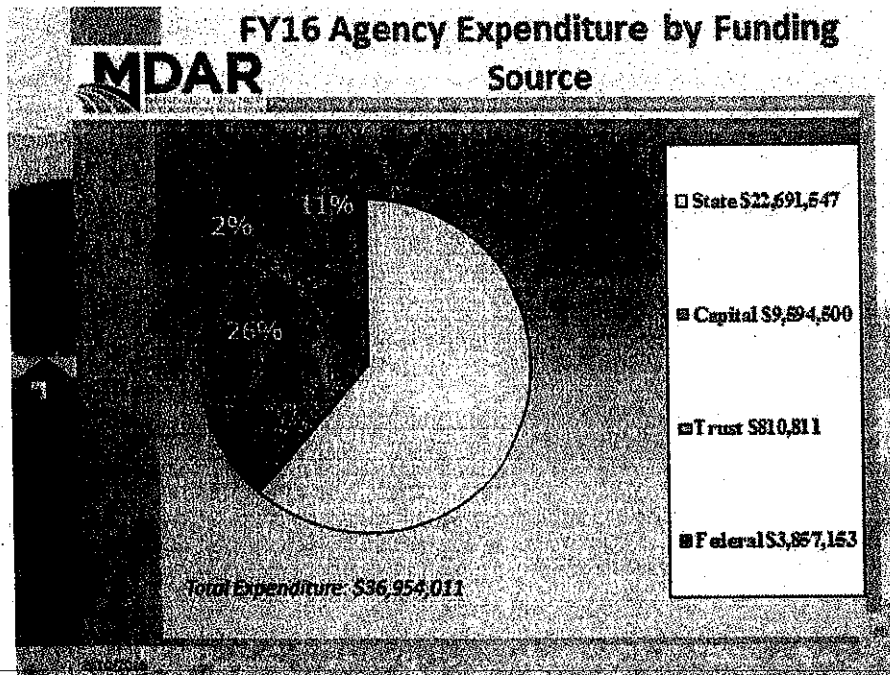
JOHN LEBEAUX  
Commissioner

COMMISSIONER'S REPORT  
MASSACHUSETTS BOARD OF AGRICULTURE  
Thursday, September 22nd, 2016  
Big E, Massachusetts State Exposition Building  
1305 Memorial Ave, Gate 1 - West Springfield, MA

1. **Staffing Updates:** Since August 11<sup>th</sup> three backfills have been hired in the agency including - Fiscal's Grants Manager position, a Pesticide Inspector in the Crop and Pest Division and the State Reclamation and Mosquito Control Board's Operations Coordinator position. Also during this time period, one Animal Health Inspector resigned and the Dairy Promotion Board Coordinator in the Agricultural Markets Division. These positions were vacated by staff that moved on to new opportunities. New positions to fill workforce needs for the implementation of the Food Safety Modernization Act (FSMA) are pending.

2. **Budget Updates: FISCAL YEAR 2016 RECAP**

MDAR expended nearly \$37 million dollars in FY16, a decrease of \$3.5 million (or 9%) in comparison to FY15 expenditures. The decrease in FY16 is attributed to 1) capital funding declining by \$2.4 million with the completion of the Boston Public Market, and 2) less than anticipated spending on Agricultural Preservation Restrictions (APRs) from federal funds due to delayed closings. FY16 expenditures by funding source are as follows: operating (budgetary) 61%, capital (bond) 26%, federal 11% and trust funds 2%.



9. **Date, Time and Location of Next Meeting:** The Board discussed having its next meeting on 11/9/16 at the Northeast Greenhouse conference in Boxborough. Ms. Sission and Alisha were also going to connect to plan an October urban agriculture tour for the Board. **Action Taken:** None.

10. **Adjournment:** **Action Take:** Mr. Smolak made a motion to adjourn the meeting. The motion was seconded by Mr. Chase. The Board voted unanimously to adjourn the meeting at 12:42pm.

Budgetary Appropriations: The Department expended 99.99% of its final FY16 budgetary appropriated amount of \$22.75 million, reverting \$22,975. Of the reversion amount, \$15K was Administration and Finance (ANF) "planned savings" to eliminate the FY16 deficit and \$3K was unexpended earmarked funding.

Capital (Bond) Accounts: The agency expended 100% of its \$9.6 million in capital (bond) program funding. By utilizing a mixture of capital and federal funds the agency expended nearly \$5.8 million on Agricultural Preservation Restrictions (APRs) to protect 817 acres and another \$650,000 on thirteen (13) agricultural covenants to protect an additional 1,093 acres.

Federal Funds: MDAR expended \$3.86 million in federal funds in FY16. The "Farmland Ranch and Protection Program" (FRPP) grant was the largest component of the agency's federal funds expenditures comprising nearly 40% of the total. The FRPP grant is utilized to fund a variety of agency programs including the APR program, the APR Improvement Program, the Farm Energy Program and the Matching Enterprise Grants Program.

Revenue: MDAR is currently responsible for the collection of a number of fees (29) ranging from pesticide applicator and milk dealer licenses to nursery and greenhouse inspection fees. A comparison of the last five fiscal years is provided below.

<u>Year</u>	<u>\$ Amount</u>	<u>% Increase/Decrease</u>
2012	\$5,633,212.00	-.81%
2013	\$5,856,068.00	3.96%
2014	\$6,158,524.00	5.16%
2015	\$6,244,823.00	1.23%
2016	\$6,291,262.00	.74%

For the eighth year in a row, MDAR generated more revenue than it expended for the administrative costs of the agency. In FY16 MDAR revenue of \$6.291 million exceeded the agency's yearend operating budget of \$5.91 million (Administration and IPM accounts combined) by 6.4% or \$381K.

#### FISCAL YEAR 2017

Personnel: MDAR currently has 75 FTEs. The agency is in the process of backfilling two positions, the Dairy Promotion Board Coordinator and an Animal Health inspector. The Department is requesting an FTE cap of 85 FTEs in its FY17 Spending Plan submitted to ANF. MDAR is looking to add eight (8) new positions from trust and federal funds. The positions include: five (5) FTEs to staff the new "Food Safety" federal grant; a Regional Planner (backfill) to coordinate the agency's Farm Viability Programs; a Program Coordinator to meet the requirements of the new public records law, manage multiple agency boards and handle ad hoc special projects for the Commissioner's Office; and a Program Coordinator in lieu of a long time contract employee currently assisting in the managing of the spay neuter program and the training of animal control officers.

Budgetary Appropriations: FY17 GAA budgetary appropriations total \$23,351,998, an increase of a one-half percent over the FY16 GAA. In FY17 pass-throughs comprise 77.5% of the MDAR operating budget. The largest pass through is the Emergency Food appropriation (2511-0105) totaling \$17.335 million. Other earmarks are as

follows: Buy Local earmark of \$300K; \$200K for mosquito larvicide control; \$120K for the Ma. Farm to School Project; 90K for the apiary inspection program; and, \$50K for the City Fruit Initiative within New Bedford. The remaining 22.5% of the FY17 budgetary appropriation or \$5,256,998 supports MDAR operations.

Administration and Finance (ANF) has set aside 1% of all agency budgetary funding with the exception of earmarks to generate savings and balance the FY17 budget.

Capital (Bond) Accounts: The agency is currently waiting to receive FY17 APR and stewardship funding. FY17 funding has been allocated for the following programs:

Food Ventures	\$1,000,000
Farm Viability Programs	\$ 750,000
Urban Agriculture	\$ 500,000
APR Administrative Costs (payroll)	\$ 291,600
Agricultural Environmental Enhancement Program (AEEP)	\$ 250,000
Food Safety	\$ 200,000

Federal Funds: MDAR is projecting federal grant expenditures of \$6.5 million in FY17. Of this amount, the Farm and Ranch Lands Protection Program (FRPP) will be the largest component at a projected \$3.7 million or 57% of the total.

MDAR has been awarded a new five year Food Safety grant. The first year award is \$499,916. MDAR will continue its current voluntary farm food safety program in Massachusetts while integrating FDA's Produce Safety Rule, into a comprehensive and scalable produce safety program in Massachusetts. MDAR will develop a strategic plan to implement this initiative in full compliance with FSMA's Produce Safety Rule. This strategic plan will include education and training for produce farmers covered under the rule, as well as implementation of a regulatory and operational framework in support of the state program. Goals include establishing an inventory of covered produce farms, benchmarking current program operations and procedures alongside proposed initiatives, developing an educational plan for the continued provision of training on the state's produce safety program and the Produce Safety Rule for farmers, completing an assessment of MDARs regulatory authority for produce safety and the resources needed to develop a successful program, and implement the program.

Trust Accounts: In FY17 MDAR has three (3) major trust funds from which it is anticipating significant activity. These trust funds are:

<u>Trust Account Name</u>	<u>Account Number</u>
Exposition Building Maintenance Fund	2511-0001
Dairy Promotion Trust Fund	2511-1020
Homeless Animal Prevention and Care Fund	2511-1193

Revenue: In FY17 MDAR is projecting revenue of \$6.29 million.

3. **FY17 Status of Grants and Map:** Grants for the following programs are all moving forward for final review and approval: the Food Ventures Program, Agricultural Energy Grant Program, Agricultural Environmental Enhancement Program, APR Improvement Program and the APR Improvement Program. Grants currently under review include: the Agricultural Energy Special Project Grant Program and the Agricultural Food Safety Improvement Program. Announcements for Urban Ag grants are forthcoming and contracts under development. The Land Stewardship Program is pending allocation of FY17 funds before an RFR will be issued. See Map of Grants.
4. **Drought Conditions and Economic Impacts on Agriculture:** In general, the major concerns for farmers are a combination of: 1) Increased costs (supplemental water or feed purchases) and; 2) Reduced revenue (loss of crops). Major industry highlights:

- a. **Cranberry:** Drought impacts are on a case by case basis - some are doing holding steady, some are holding steady for now but concerned whether there will be enough water for harvest; some have already run out of water or are very close to running out and some may have to choose whether to use water for the harvest or for frost protection because worried they may not have enough for both. If they can't flood, they will lose the crop. Income loss, but also other concerns such as pest pressures. Some growers may switch to dry harvesting their berries, but the transition is difficult for most because of limitations of equipment, labor, and vine development. Water purchases are not an option.
- b. **Livestock (Dairy included):** Loss of forage is the major impact we're hearing. Already minimal acreage (as compared to national farms) is used for forage. Drought is reducing this significantly. Farmers have already had to start using winter feed supplies (purchased feed à increased costs) to feed their animals, when in a typical year this would not start until November or December. Increased water use to keep animals healthy (for drinking or cooling animals). Water tanks are an option.
- c. **Apiary:** Hives beginning to show signs of lack of foraging resources.
- d. **Greenhouse/nursery and produce farms:** Water availability concerns; water tanks are an option and increased water costs to keep plant stock healthy.
- e. **Aquaculture:** Freshwater aquaculture farms - water availability concerns.

MDAR is actively working on EEA Drought Task Force and with federal partners to address drought related concerns for farmers.

5. **Food Action Plan:** At the last Food Policy Council (FPC) meeting on September 16<sup>th</sup> the FPC discussed priority action items where collaboration and resource-sharing between FPC members can efficiently and effectively address action items during the Implementation Phase. The focus of the meeting was to hone the list of collaborative priorities for the FPC, to a shorter list (from 23 to 6 areas) to advance to a general consensus. The six areas of focus include:

- 1). Support programs that facilitate access to healthy foods for underserved communities.
- 2). Reduce food waste through state programs for farmers, restaurants, processors, and consumers.
- 3). Support regulatory policies and practices that allow farms and other food system businesses to thrive.
- 4). Support and grow food system infrastructure.
- 5). Support increased purchases of Massachusetts-grown and -produced foods.



6). Support educational opportunities for farmers and other food system workers.

Also discussed the future direction of the FPC – no decision was made.

6. **Update, Food Safety Modernization Action (FSMA):** FDA grant award to implement the "Produce Safety Rule" in Massachusetts announced last week. Massachusetts will receive the following:

YEAR 1. \$499,916  
YEAR 2. \$717,260  
YEAR 3. \$747,774  
YEAR 4. \$762,445  
YEAR 5. \$852,246

As mentioned in previous meetings, Year 1 funding will be devoted to developing program capacity, and education and outreach. Inspections would commence in Year 2. Jason Wentworth, Michael Botelho and Laura Maul have been working with UMass Extension, NASDA partners and counterparts from other States on planning and initial program development to thread the Federal guidelines into the existing Commonwealth Quality Program (CQP) framework.

Next steps will be to: a) reconvene a more robust produce stakeholder advisory group to discuss challenges and opportunities faced due to implementation of the Produce Safety Rule; b) seek the necessary statutory authority for on-farm inspections, working in concert with key members of the Legislature and; c) continue working with Administration and Finance on issues relating to building fiscal sustainability of CQP in an uncertain long-term federal funding climate.

7. **Legislative Updates:** H2782 "An Act establishing Massachusetts Farm-to-School Month and commending Farm-to-School programs" Awaiting Governor's signature making October "farm-to-school-month."
8. **Update, Regulatory Review and Schedule for Public Hearings:** Upcoming hearings to be held are as follows: In Westborough on 9/21, APR and Land Use; on 10/20 – Apiary and Compost and on 10/27 – the Plant Nutrient Regulations. Public hearings already held include: Standards for Application of pesticides; Plant Quarantine and all technical corrections and rescissions



To: Massachusetts Board of Agriculture  
From: Board Member Laura Sapienza-Grabski  
Subject: Farm Animal Regulations  
Date: September 22, 2016

Massachusetts farmers are under attack by animal rights groups and well-meaning citizens, on the care of farm animals with Ballot Question 3 and because of the horrific Westport abuse situation.

Recently WBUR radio covered a debate on Ballot Question 3 with proponents claiming that Massachusetts doesn't have a process to protect farm animals, that thousands of chickens cannot move around in their cages and that something needs to be done to stop horrific factory farming practices in Massachusetts. The representatives of the Humane Society and Massachusetts Society for the Prevention of Cruelty to Animals have also been stirring up the masses at regional meetings with this same message and I witnessed such a situation in the town of Peabody. I reported a troubling encounter to State Veterinarian Dr. Lorrain O'Connor because a young woman from the MSPCA cited the Westport situation and insinuated that this ballot question could have prevented this situation. More disturbingly, attendees at the Peabody event commented "that they learned much from Black Lives Matters" with the known leader of a past protesting group that targeted Northshore farmers, involved in this group discussion.

A response needs to be made to balance out the hysteria and to educate the community that Massachusetts does have a process under state government within the Massachusetts Department of Agricultural Resources for the care and well-being of farm animals, but in addition I suggest that the Board of Agriculture recommend an additional tool. The creation of an Ad Hoc "Livestock Care and Standards Board" in keeping with the language of House Bill 713 which did not pass this session. I have attached a copy of this bill for the board to review.

A swift response, that there IS a process in Massachusetts to protect farm animals and the announcement of the formation of the Ad Hoc Livestock Care and Standards Board which includes animal protection groups to come to the table to discuss the care issue, IS an additional check in the process.

Attached is a copy of Ballot Question 3 which transfers the authority to the Attorney General broadly in farm animal regulations and other processes. This ballot question, which is expected by many to pass, will generate conflict between the existing processes. The Ad Hoc formation of a "Livestock Care and Standards Board" as defined in House Bill 713 will enable balanced process to weigh in on the issues and be an excellent response to the Westport abuse by creating a tool to examining methods to improve the process.

**Conclusion:** The swift formation of an Ad Hoc, Livestock Care and Standards Board in keeping with House Bill 713; the restatement of the Division of Animal Health's charge would help balance the discussion on Massachusetts farm animal care.

This action needs to be enacted prior to the November elections, to retort the negative comments by the Question 3 proponents that Massachusetts farmers are abusing animals and educate the public that a process DOES exist for farm animal protection.

Respectfully Submitted,

Laura Sapienza-Grabski

Board of Agriculture Member

HOUSE . . . . . No. 713

The Commonwealth of Massachusetts

PRESENTED BY:

*Stephen Kulik*

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 the care and well-being of livestock.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Barbara L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>

**HOUSE . . . . . No. 713**

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 713) of Stephen Kulik and others for legislation to direct the Commissioner of the Department of Agricultural Resources to establish a livestock care and standards board to ensure the humane keeping and treatment of livestock. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 4008 OF 2013-2014.]

**The Commonwealth of Massachusetts**

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

An Act to promote the care and well-being of livestock.

*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 128 of the General Laws, as appearing in the 2008

2 official edition, is hereby amended by inserting the following new sections:-

3 Section AA. The Commissioner shall establish a Livestock Care and Standards  
4 Board consisting of 13 members, of which the Commissioner, or his designee, shall be a member  
5 and chair. Additional members shall include: a representative of the Massachusetts Veterinary  
6 Medicine Association, appointed by the Board of Directors of that organization, who is  
7 experienced in the care and keeping of livestock; a large animal veterinarian, appointed by the  
8 Governor, who is experienced in the care and keeping of livestock,; a representative of the  
9 Department of Public Health, assigned by the Commissioner of Public Health, who is

10 knowledgeable in the areas of zoonotic disease and food safety; a representative of a  
11 Massachusetts Society for the Prevention of Cruelty to Animals; a representative of the Animal  
12 Rescue League of Boston; a representative of the Massachusetts Farm Bureau Federation; a  
13 representative of the Massachusetts chapter of the Northeast Organic Farming Association;  
14 representative of a family farm involved in the raising of poultry, appointed by the  
15 Commissioner; two representatives of a family farms involved in the rearing of cows, swine,  
16 goats, sheep and/or horses, appointed by the Commissioner; a representative of one of the Buy  
17 Local organizations, or equivalent organizations identified by the Commissioner, provided that  
18 terms shall rotate between different Buy Local groups; and a representative of the Cumming  
19 School of Veterinary Medicine at Tufts University, as appointed by the Dean.

20 Members shall serve a term of three years, and shall remain eligible for reappointment at  
21 the end of terms served. The purpose of the Board shall be to advise the Commissioner on  
22 appropriate actions to be taken by the Commissioner to help ensure the humane keeping and  
23 treatment of livestock, and the viability of farms and related businesses involved in the rearing  
24 and keeping of livestock.

25 Section BB. The Commissioner may promulgate regulations and/or voluntary standards  
26 governing the care and well-being of cattle, swine, poultry, and other livestock; provided  
27 however that such regulations and standards are approved by a minimum of a two-thirds vote of  
28 the Livestock Care Board. Factors to be considered in the promulgation of these standards shall  
29 include but not be limited to: the health, safety, comfort of animals; food safety; biosecurity,  
30 animal health and public health; and the financial impact/viability of farms and related  
31 businesses impacted by said standards.

32 Section CC. Upon establishment, at the first official meeting thereof, the Commission  
33 shall examine practices relating to battery cage hen operations, swine gestation crates and veal  
34 crates and determine appropriate actions to undertake. The Commission shall examine whether  
35 bans, regulations, guidelines or other measures, if any, are necessary or appropriate relative to  
36 such practices within the Commonwealth. Subsequent to addressing these two topics, the  
37 Commission shall examine additional practices and topics at the request of any two members.  
38 All meeting shall occur in accordance with state open public meeting requirements and efforts  
39 shall be made to ensure meetings are held at a variety of geographic locations throughout the  
40 state.



An Act to Prevent Cruelty to Farm Animals

Be it enacted by the People, and by their authority:

Prevention of Farm Animal Cruelty Act

Section 1.

The purpose of this Act is to prevent animal cruelty by phasing out extreme methods of farm animal confinement, which also threaten the health and safety of Massachusetts consumers, increase the risk of foodborne illness, and have negative fiscal impacts on the Commonwealth of Massachusetts.

Section 2.

Notwithstanding any general or special law to the contrary, it shall be unlawful for a farm owner or operator within the Commonwealth of Massachusetts to knowingly cause any covered animal to be confined in a cruel manner.

Section 3.

Notwithstanding any general or special law to the contrary, it shall be unlawful for a business owner or operator to knowingly engage in the sale within the Commonwealth of Massachusetts of any:

- (A) Shell egg that the business owner or operator knows or should know is the product of a covered animal that was confined in a cruel manner.
- (B) Whole veal meat that the business owner or operator knows or should know is the meat of a covered animal that was confined in a cruel manner.
- (C) Whole pork meat that the business owner or operator knows or should know is the meat of a covered animal that was confined in a cruel manner, or is the meat of the immediate offspring of a covered animal that was confined in a cruel manner.

Section 4.

For the purposes of this Act, a covered animal shall not be deemed to be "confined in a cruel manner" during:

- (A) Transportation.
- (B) State or county fair exhibitions, 4-H programs, and similar exhibitions.
- (C) Slaughter in accordance with any applicable laws, rules, and regulations.
- (D) Medical research.

(E) Examination, testing, individual treatment or operation for veterinary purposes, but only if performed by or under the direct supervision of a licensed veterinarian.

(F) The five (5) day period prior to a breeding pig's expected date of giving birth, and any day that the breeding pig is nursing piglets.

(G) Temporary periods for animal husbandry purposes for no more than six (6) hours in any twenty-four (24) hour period.

Section 5. For purposes of this Act, the following terms shall have the following meanings:

(A) "Breeding pig" means any female pig of the porcine species kept for the purpose of commercial breeding.

(B) "Business owner or operator" means any person who owns or controls the operations of a business.

(C) "Calf raised for veal" means any calf of the bovine species kept for the purpose of commercial production of veal meat.

(D) "Covered animal" means any breeding pig, calf raised for veal, or egg-laying hen that is kept on a farm.

(E) "Confined in a cruel manner" means confined so as to prevent a covered animal from lying down, standing up, fully extending the animal's limbs, or turning around freely.

(F) "Egg-laying hen" means any female domesticated chicken, turkey, duck, goose, or guinea fowl kept for the purpose of commercial egg production.

(G) "Enclosure" means any cage, crate, or other structure used to confine a covered animal or animals. "Enclosure" includes what is commonly described as a "gestation crate" or "stall" for pigs during pregnancy, a "veal crate" for calves raised for veal, and a "battery cage, enriched cage, or colony cage" for egg-laying hens.

(H) "Farm" means the land, building, support facilities, and other equipment that are wholly or partially used for the commercial production of animals or animal products used for food; and does not include live animal markets or establishments at which inspection is provided under the Federal Meat Inspection Act.

(I) "Farm owner or operator" means any person who owns or controls the operations of a farm.

(J) "Fully extending the animal's limbs" means fully extending all limbs without touching the side of an enclosure. In the case of egg-laying hens, fully extending the animal's limbs means fully spreading both wings without touching the side of an

enclosure or other egg-laying hens and having access to at least 1.5 square feet of usable floor space per hen.

(K) "Person" means any individual, firm, partnership, joint venture, limited liability corporation, estate, trust, receiver, syndicate, association, or other legal entity.

(L) "Pork meat" means meat, as defined in 105 CMR 531.012 as of June 1, 2015, of a pig of the porcine species, intended for use as human food.

(M) "Sale" means a commercial sale by a business that sells any item covered by Section 3, but does not include any sale undertaken at an establishment at which inspection is provided under the Federal Meat Inspection Act. For purposes of this section, a sale shall be deemed to occur at the location where the buyer takes physical possession of an item covered by Section 3.

(N) "Shell egg" means a whole egg of an egg-laying hen in its shell form, intended for use as human food.

(O) "Turning around freely" means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure or another animal.

(P) "Uncooked" means requiring cooking prior to human consumption.

(Q) "Usable floor space" means the total square footage of floor space provided to each hen, as calculated by dividing the total square footage of floor space provided to hens in an enclosure (including both ground space and elevated flat platforms) by the number of hens in that enclosure.

(R) "Veal meat" means meat, as defined in 105 CMR 531.012 as of June 1, 2015, of a calf raised for veal, intended for use as human food.

(S) "Whole pork meat" means any uncooked cut of pork (including bacon, ham, chop, ribs, riblet, loin, shank, leg, roast, brisket, steak, sirloin or cutlet) that is comprised entirely of pork meat, except for seasoning, curing agents, coloring, flavoring, preservatives and similar meat additives. Whole pork meat does not include combination food products (including soups, sandwiches, pizzas, hot dogs, or similar processed or prepared food products) that are comprised of more than pork meat; seasoning, curing agents, coloring, flavoring, preservatives and similar meat additives.

(T) "Whole veal meat" means any uncooked cut of veal (including chop, ribs, riblet, loin, shank, leg, roast, brisket, steak, sirloin or cutlet) that is comprised entirely of veal meat, except for seasoning, curing agents, coloring, flavoring, preservatives and similar meat additives. Whole veal meat does not include combination food products (including soups, sandwiches, pizzas, hot dogs, or similar processed or prepared food

products) that are comprised of more than veal meat, seasoning, curing agents, coloring, flavoring, preservatives and similar meat additives.

Section 6. The Attorney General shall have exclusive authority to enforce the provisions of this Act. Each violation of this Act shall be punished by a civil fine not to exceed one thousand dollars (\$1,000). The Attorney General may also seek injunctive relief to prevent further violations of this Act.

Section 7. It shall be a defense to any action to enforce this Act that a business owner or operator relied in good faith upon a written certification or guarantee by the supplier that the shell egg, whole pork meat, or whole veal meat at issue was not derived from a covered animal that was confined in a cruel manner, or from the immediate offspring of a female pig that was confined in a cruel manner.

Section 8. The provisions of this Act are in addition to, and not in lieu of, any other laws protecting animal welfare. This Act is not intended, and should not be construed to limit any other state law or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations that are more stringent than this section.

Section 9. The provisions of this Act are severable and if any clause, sentence, paragraph or section of this Act, or an application thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or application adjudged invalid.

Section 10. The Attorney General shall promulgate rules and regulations for the implementation of this Act on or before January 1, 2020.

Section 11. Sections 2-7 of this Act shall take effect on January 1, 2022.

