



The Massachusetts Agritourism Study Commission Final Report

Compiled by the MA Department of Agricultural Resources

March 16, 2022

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I. Introduction

Agricultural tourism, known colloquially as agritourism, merges the enterprise of travel and tourism with the experiences of farming and agriculture. It showcases to the public the agricultural production and processing that takes place on a farm with the intent to attract visitors for the purposes of entertainment and education while generating additional income for the farm. According to the United States Department of Agriculture's (USDA) latest 2017 Census of Agriculture, there are 240 farms in Massachusetts that participate in agritourism activities amounting to \$13,476,000 in total income which averages out to \$56,150 per farm.

This burgeoning sector of agriculture in the Commonwealth faces certain challenges which have made implementing agritourism programming on Massachusetts farms problematic through no fault of the overburdened local farmer. With shifting trends in traditional farming, and as the urban and suburban population becomes more and more removed from the farm, agritourism can act as a means for the farmer to increase revenue, while reconnecting with the public and informing them about the time and effort that goes into producing food and other farm products through fun and enjoyable experiences.

The Agritourism Study Commission, created by an act of the Massachusetts General Court, and comprised of members representing stakeholders within the agriculture industry, and the Executive and Legislative branches of state government convened in mid-2020. Their objective was to review state and municipal laws and regulations relative to agricultural zoning, policies and grant programs offered by the Massachusetts Department of Agricultural Resources (MDAR), including the Agricultural Preservation Restriction (APR) program, programs offered by the Massachusetts Office of Travel and Tourism (MOTT), and national best practices to implement agricultural tourism.

This Final Report seeks to put forth a set of recommendations including proposed legislation that will enable the Commonwealth of Massachusetts to further support MA farms and farmers who desire to engage in agritourism programming and sustain their efforts through that endeavor. The Report does not represent the end of the conversation, but seeks to address some immediate concerns, while laying the groundwork to enhance the future prosperity of this particular agricultural sector.

II. Industry Background

In 2007, the USDA Census of Agriculture first used the term, “agritourism” by asking farmers about their agritourism activities in order to learn more about this particular endeavor. With subsequent Census reports in 2012 and 2017 (the USDA Census is taken every five years), income derived from agritourism in the United States has grown by 67% over 10 years.

As mentioned in the introduction, for the 2017 Census, the 240 farms participating in agritourism activities generated a combined income of \$13,476,000. This figure represents an 11.89% increase in income compared to 2012 Census when that figure was \$12,034,000 and only \$5,300,000 in 2007.

In 2017, Massachusetts was the eighth highest state in the U.S. for agritourism value per farm among participating farms and the second highest New England State behind Connecticut. In 2012, Massachusetts was the fifth highest state and the number one New England state so our standing as the leader in our region for agritourism has slipped. While Massachusetts did drop in this per farm national ranking, it still gained 34% in average per farm value among participating farms so this can be considered an overall positive effect that agritourism has had for participating farms (\$41,929 in income for 2012 compared to \$56,150 in income for 2017).

Based on these figures, agritourism in Massachusetts continues to be a viable and successful commercial enterprise for farmers to increase their income by providing an experiential and memorable medium of programming for the consumer. As the realities of modern-day agriculture put a strain on traditional farms, agritourism provides an economic benefit that goes beyond the farm. Visitors to these farms often end up spending time and patronizing other nearby businesses, increasing economic activity to other nearby industries. Moreover, the people who visit farms and enjoy themselves become more educated consumers understanding agriculture and will look favorably at farm issues, thereby increasing public awareness about farming in the Commonwealth. School-aged children who visit farms will also come away with an indelible imprint on the importance of farming which will have a lasting impression and help shape their worldview.

Massachusetts is uniquely positioned to support local farms through its regional Buy Local organizations. The Buy Locals were created to promote local food to their communities, support farmers with business and operational needs, increase access to fresh, locally grown food in underserved communities, and connect farmers to markets. Nine regional organizations, working together as the Massachusetts Coalition for Local Food and Farms, serve distinct geographic areas across the state and focus their efforts on regional promotion, education, and technical support for our farmers. Each regional nonprofit has particular interests and emphases based on the specific needs of their farming

communities. Broad support and focused promotion from Buy Locals have helped place Massachusetts as 5th in the country in direct market farm sales.

Mass Coalition for Local Food and Farms



Buy Locals promote farmers markets, farm stands and Community Supported Agriculture (CSAs) as part of their core work in marketing local food to increase direct farm sales. On-farm agritourism events are an extension of their promotional efforts. These established cooperative relationships allow farmers to access promotional opportunities more easily through printed Buy Local guides, electronic newsletters, and a robust social media presence to expand their marketing efforts to an interested and an engaged audience.

In addition to their promotional work, Buy Locals work with farmers to provide educational and technical assistance on both crop-related and business management topics. Agritourism is one of many subjects supported by these efforts. Technical assistance provided includes determining customer flow and site assessments, navigating town regulations, assessing insurance issues, and creating an event marketing plan.

Agricultural Fairs represent the earliest iteration of agricultural tourism and are frequently the first chance to make a farming impression on the public. From goats shows to spinning demonstrations, hatching chicks, and prize-winning fruits and vegetables, fairs celebrate what makes our state's agriculture so unique and special. While a few fairs have come a long way from their agrarian roots, most fairs showcase the best that local agriculture has to offer. These fairs and expos are often a first-person experience with livestock and farming that can affect the perception of agriculture forever. Families come to see the very best in agricultural products and livestock, and to experience hands-on programs and events they will not experience anywhere else.

Massachusetts has 40 agricultural fairs throughout the season from the Berkshires to Cape Cod, from the large multi-state Eastern States Exposition (The Big E), to local 4-H and Grange fairs, to crop-specific festivals for garlic, chili peppers, asparagus, and sunflowers. Not only a draw for the public, these fairs are an honored tradition for generations of farming families. Fairs build strength in the farming community and pride in their accomplishments in the show ring or the vegetable competitions. There is a resurgence of interest in these generations-old traditions of agriculture, self-sufficiency, and resiliency and our agricultural fairs can support the community through these learning opportunities.

Without any statewide laws and regulations governing agricultural tourism, Massachusetts farms are dependent upon their local or municipal jurisdictions which can vary significantly throughout the Commonwealth. Some cities and towns are more open to allowing agritourism activities at their farms than others, much to the consternation of the local farmer who is simply looking to survive by diversifying their portfolio of agricultural offerings to the public.

With this challenge in mind, the Agritourism Study Commission presents their recommendations as to how Massachusetts can be a Commonwealth that better supports agritourism and supports farmers who wish to start or expand their agritourism programming.

III. Agritourism Study Commission Background

The Agritourism Study Commission was formed by the Legislature through the passage of House Bill 4962: An Act Establishing an Agricultural Tourism Study Commission and signed into law on January 10, 2019. Through the enabling legislation, the Commission was to be comprised of the Commissioner of the Department of Agricultural Resources or a designee, who would serve as the chair; the Executive Director of the Office of Travel and Tourism or a designee; the House and Senate Chairs of the Joint Committee on Tourism, Arts and Cultural Development; the House and Senate Chairs of the Joint Committee on the Environment, Natural Resources and Agriculture; the House Minority Leader or a designee; the Senate Minority Leader or a designee; the Commissioner of the Department of Public Health or a designee; and 4 members to be appointed by the Governor, 1 of whom shall be a representative of the Massachusetts Municipal Association, Inc.; 1 of whom shall be a representative of the Massachusetts Farm Bureau Federation, Incorporated; and 2 of whom shall be representatives from the agricultural tourism industry. The Study Commission was tasked with coming up with a definition of agritourism in the Commonwealth as well as research best practices to apply to the sustainability of agritourism and file a report with the results of its study including recommendations and drafts of proposed legislation with the Clerks of the House of Representatives and Senate.

Massachusetts Agritourism Study Commission Members

Chair: Commissioner **John Lebeaux**, *Massachusetts Department of Agricultural Resources*

Staff Liaison: Deputy Commissioner **Ashley Randle**, *Massachusetts Department of Agricultural Resources*

Members:

Executive Director of the MA Office of Travel and Tourism: **Keiko Orrall**

Senate Chair, Joint Committee on Tourism, Arts and Cultural Development: **Senator Edward Kennedy**

House Chair, Joint Committee on Tourism, Arts and Cultural Development: **Representative Carole Fiola**

Senate Chair, Joint Committee on the Environment, Natural Resources and Agriculture: **Senator Becca Rausch**

House Chair, Joint Committee on the Environment, Natural Resources and Agriculture: **Representative Carolyn Dykema**

Commissioner of the Department of Public Health **Margret Cooke** (Designee: **Michael Moore**)

Massachusetts Municipal Association: **Nathan L'Etoile**

Massachusetts Farm Bureau Federation: **Brad Mitchell**

Agricultural Tourism Industry: **Karen Schwalbe**, Southeastern Massachusetts Agricultural Partnership

Agricultural Tourism Industry: **Erin Williams**, Bogside Acres

Subcommittees and Members

The Commission formed two subcommittees to address the directives of agricultural zoning and related matters as well as a defining agritourism and best practices.

1. Regulatory

Brad Mitchell
Michael Moore
Nathan L'Etoile
Karen Schwalbe

2. National Policies

Erin Williams
Yael Langer (designee of Senator Anne Gobi)*

**For the 192nd General Court, Senate Leadership of the Environment, Natural Resources, and Agriculture Committee changed from Senator Anne Gobi to Senator Becca Rausch. Senator Gobi and her designee led discussions and deliberations in the National Policies subcommittee.*

IV. Massachusetts Office of Travel and Tourism (MOTT) Efforts to Promote Agritourism

Agritourism is defined in this document as a form of commercial enterprise that links agricultural products and/or processing with tourism to attract visitors onto a farm or other agricultural businesses, educating and entertaining visitors while generating additional income for the farm and business owner.

Popular agritourism products included Pick Your Own (PYO) operations, petting zoos, hayrides, corn mazes, farm stands, retail stores with local produce and ready-made value-added items for sale, hosting farm-to-table meals, weddings and birthday parties, field trips and using farms for overnight lodging.

In addition, distilleries, wineries and breweries have steadily grown as experiential tourism continues to gain popularity. Also, sporting events such as Tough Mudder and similar obstacle races and contests were on the rise.

MOTT has supported agritourism by partnering with the MA Dept of Agricultural Resources (MDAR) on a variety of programs and co-hosted several agritourism workshops. MOTT's website, www.visitma.com, has listings for all the Massachusetts farms, fairs and links to MDAR programs and activities.

Annually, MOTT participates in the 17-day BIG E by hosting the Massachusetts Visitor Information Center in the Massachusetts State Exposition Building (MA Building). MOTT works in tandem with MDAR in supplying information. MOTT works closely with MDAR on pre-publicity for the fair and typically includes quotes from MOTT's executive director for pre-publicity.

MOTT is a member of the MDAR Massachusetts Building Advisory Board and is represented at each quarterly meeting. Participation includes brainstorming with co-members and action follow-up.

MOTT's executive director is invited to attend ceremonies around various themes including March Maple Month activities, Green Friday, Agritourism farm tours, etc.

Possible Future Initiatives

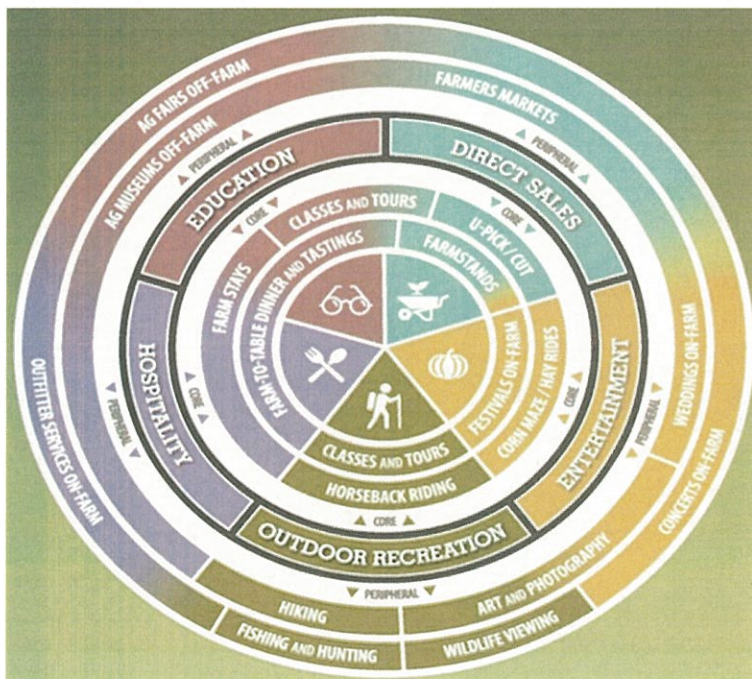
- Develop PR strategy and increase awareness through familiarization visits
- Continued representation of agritourism at quarterly Advisory Council on Travel and Tourism Meetings
- Develop marketing for culinary tourism/Savor program
- Develop online ticketing - [FarmPass](#) is an online ticketing platform allowing customers to present their phone with their pre-purchased tickets.
- Increase educational opportunities
 - [Grow NYC](#) offers a series of farm field trips to show children where their food comes from
 - Road Scholars, based in Cambridge, has developed a variety of adult experiential programs, including this one in [Vermont](#).
 - [NAPA Valley in California](#) has a successful experiential program at wineries.

Additional Resources:

North American Farmers' Direct Marketing Association

NAFDMA is the International Agritourism Association, formed in 1986. It is a membership-based non-profit trade association dedicated to advancing the farm direct marketing and agritourism industries.

<https://nafdma.com/IndustryResources0>



Source: Chase, et al. 2018

[Source: Penn State University](#)

Studies (Academic and Agri Organizations)

- Cornell
<https://smallfarms.cornell.edu/resources/farm-resilience/best-management-practices-for-agritourism-covid/>
- California [COVID-19 Matchmaking Doc](#) that helps farmers & buyer link up
- Keeping Agritourism Relevant through Covid
<https://www.growingproduce.com/vegetables/ways-to-keep-agritourism-relevant-through-the-covid-19-pandemic/>

V. Joint Committee on Tourism, Arts and Cultural Development – Legislation Related to Agritourism

Agritourism is a form of commercial enterprise that links agricultural production and/or processing with tourism to attract visitors onto a farm, ranch, or other agricultural business for the purposes of entertaining and/or educating the visitors and generating income for the farm, ranch, or business owner. By establishing a definition for what activities constitute agritourism, future bills can be proposed to support the agritourism industry in various ways.

There is currently one bill related to Agritourism pending before the General Court. *An Act defining Agritourism* (S2245) was filed by Senator Edward Kennedy and assigned to the Joint Committee on Tourism, Arts, and Cultural Development. The bill was amended in committee to include further clarifications and reclassified as S2643.

Senate Bill S2643 reads:

"Chapter 128 of the General laws, as appearing in the 2018 Official Edition, is hereby amended by adding after section 1A, the following new section:-

SECTION 1B:

"Agritourism" is defined as "an agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, experience, or enjoy that activity."

Section 2 - MGL 40a, Section 3, as appearing in the 2018 Official Edition, is hereby amended by adding after the first paragraph the following:-

These protections afforded in the previous paragraph shall apply to agritourism activities as defined in Chapter 128, Section 1B, provided that the agritourism activity must:

1. Generate no more than 25% of the gross farm income. Of the remaining income, at least 65% must come from the sale of product grown on the farm or another qualifying Massachusetts farm, a minimum of 35% of which must be produced at the farm at which the agritourism activity takes place.
2. A non-farming property owner may conduct agritourism on a property provided that:
 - a. At least 75% of the acreage of the property is dedicated to traditional agricultural activities
 - b. At least 50% of the agricultural product produced on the property, by either gross sales or volume, are purchased by the property and utilized in the agritourism activity.

The purpose of this legislation is to place a specific definition for agritourism in the section of the Massachusetts General Laws dealing with agricultural policy. Massachusetts is currently one of 12 states where agritourism is not specifically mentioned in statute. The definition provided in the bill is based on similar language in other states.

VI. Recommendations Regarding Agritourism Operations with Brewing, Distilling, and Winery Licenses

Note: the following recommendations are limited in their application to farms engaged in agritourism that are also engaged in the manufacture of beer, wine, or hard alcohol.

MARKETING, PROMOTION, AND GRANT SUPPORT

In line with the recommendation of the Massachusetts Local Food Action Plan Action Item 1.4.4, the state should expand its agritourism programs to draw visitors to farms and businesses that feature products produced from a significant percentage of locally grown products, such as wines, spirits, hard cider and beer, or when produced on a farm as a part of an agritourism enterprise that highlights local agriculture and local agricultural products. Particular attention should be paid to attracting visitors directly to farms, agricultural events, and other seasonal festivals.

The Commonwealth's Agricultural Directional Signage Program (a joint program between MDAR and MA DCT-Highway) should be updated to provide additional icons covering a wider variety of value-added products that can be used to indicate breweries, hard cider makers, or distillers.

Both marketing and infrastructure grants should be provided directly to agritourism operations that are also engaged in value-added processing.

Grant support should be provided to agritourism operations in rural areas that lack an approved public water supply, or municipal wastewater disposal options. Such support should include both technical and financial resources and be coordinated or provided in partnership with MassDEP to assure that the benefits of combining on farm value added processing and agritourism do not only accrue to those urban or peri-urban communities with public water and sewer infrastructure, while also assuring public health and environmentally responsible wastewater disposal.

REGULATORY/STATUTORY

A liaison between MDAR and the ABCC should be identified to assure clear communication and understanding regarding the complex interaction between the state's agricultural exemptions and the state alcohol control laws. The agencies should consider publishing a specific guide for farms wishing to engage in on farm production of beer, wine, or spirits.

MGL Chapter 40A S 3 should be clarified to more clearly state that facilities for the sale of beer and spirits, when produced according to the same requirements as wine, are also covered by the section. Care should be taken to not confuse this with the non-zoning siting rules within the existing alcohol licensing covering distances to schools, churches, etc . . .

Any future changes to the “one day license” rules that seek to limit their use should include provisions to assure that such changes do not negatively impact agritourism operations that may rely on such one day permits.

MDAR and MassDEP should develop a joint regulatory and point of contact framework for assisting farms without public water supply and wastewater infrastructure who wish to engage in value added activities, especially water intensive ones such as the manufacture of beer, wine, and spirits.

MGL chapter 61A section 1 (which covers the taxation of land used for animal agricultural) provides that current use taxation is available not just for land that produces animals, but also for land that is used to produce products derived from those animals (for example, milk or cheese from a cow, or wool or sweaters from a sheep, when such cows or sheep where raised on the farm.) It does so by including the term “or a product derived from such animals in the regular course of business”. MGL chapter 61A section 2 (which covers the taxation of land used for horticulture - all plant based agriculture) should be clarified to provide the same value added opportunities for horticulture that are provided for agriculture, by including the term “ . . . or a product derived from such plants in the regular course of business . . . ”

VII. Guidance for Farms and Agricultural Businesses on Cottage Food and Other Food Sales

The MA Department of Public Health (DPH) Food Protection Program (FPP) works in conjunction with Local Boards of Health (LBOH) to ensure a safe and wholesome food supply in Massachusetts. We do this by promulgating and enforcing regulations related to food safety, conducting foodborne illness complaint investigations, and responding to other food emergency incidents.

With limited exceptions, all persons engaged in the sale of food products in Massachusetts must receive a permit and comply with state regulations. The permit will depend on the type of establishment and type(s) of food the establishment is selling. The guidance below summarizes the permitting and regulatory requirements applicable to farms and agricultural businesses engaged in the sale of food products, including cottage foods, in Massachusetts.

Retail Food Sale:

- If food is prepared for direct sale to consumers (retail), then [105 CMR 590.000, Minimum sanitation standards for food establishments](#) applies. These standards are known as the “Retail Food Code”.
- LBOH issues permits and conducts inspections for retail food kitchens under the Food Code.
- A Retail Food Code permit is not required for farms selling whole, uncut fresh fruits and vegetables, unprocessed honey, pure maple products, or farm fresh eggs which are stored and maintained at 45°F (7.2°C) or less.

Food Wholesale:

- If food is prepared for sale to retail stores (wholesale), then [105 CMR 500.000, Good Manufacturing Practices for Food](#) applies. These standards are known as the “Food Manufacturing Code”.
- DPH issues permits and conducts inspections of wholesale food kitchens under the Food Manufacturing Code.

- For wholesale sellers of uncut fresh fruits and vegetables and farmers who produce and sell raw farm products at wholesale, including eggs, a Food Manufacturing Code permit is not required under MGL ch.94 s. 305C.

If a kitchen is used for both retail and wholesale food production, then operators need licenses and inspections from both DPH and the LBOH.

Time/Temperature Controlled for Safety (Potentially Hazardous) Foods

Many of the requirements in the state retail and manufacturing food codes are applicable only if the food being produced or sold is potentially hazardous when held at room temperature, also called “time/temperature controlled for safety” (TCS). To prevent foodborne illnesses, establishments producing TCS foods must have protocols in place to monitor and ensure correct temperatures are maintained during cooking, holding and storage of food. The establishment must have the proper facilities, such as hot and cold holding equipment, to meet these requirements.

-TCS Foods require time/temperature control for safety to limit pathogenic microorganism growth or toxin formation. These include meat or fish that is raw or heat-treated, cream-filled pastries, cheesecake, custard, cut fruit and vegetables, tomato and barbeque sauce, pickled products, relishes, and salad dressings.

-Non-TCS Foods can be safely held at room temperature with no refrigeration required. These include prepackaged foods like chips and candy, as well as certain baked goods, jams, and jellies.

A product will be considered non-TCS even if preparation includes use of TCS ingredients such as milk, cream, and eggs – as long as the final product does not require refrigeration.

Cottage Foods in the Retail and Manufacturing Codes

In the Massachusetts manufacturing and retail food codes, cottage foods are a type of non-TCS food¹. Establishments that only produce Cottage Foods do not have to meet requirements that

¹ Note that where the codes specifically refer to “Cottage Foods”, it is only in reference to Residential Kitchens (kitchens located in private homes). Residential Kitchens may only produce Cottage Foods, where establishments outside of a home may be permitted to produce all food types. Establishments outside of a private home that produce only Cottage Foods will apply for a permit either under the Retail Food Establishment Permit or Manufacturing/Wholesale Permit.

are specific to TCS foods. Specifically, these Cottage Food-only establishments:

- do not need to have a Certified Food Protection Manager on staff
- do not have to meet specific holding and cooking temperatures for finished food products
- do not need to have equipment for hot and cold holding.

Food Processing and Sale at Farms

Below is a summary of permit requirements under the state retail and manufacturing food codes for farms conducting certain food processing and sales².

- **Farms selling only low-risk foods/agriculturally exempt products:**
 - **Retail:** A Retail Food Code permit is not required for farms selling whole, uncut fresh fruits and vegetables, unprocessed honey, pure maple products, or farm fresh eggs which are stored and maintained at 45°F (7.2°C) or less. For pure maple and unprocessed honey products, a Retail Food Code permit is not required under 105 CMR 590.010(F).
 - **Wholesale:** For wholesale sellers of uncut fresh fruits and vegetables and farmers who produce and sell raw farm products at wholesale, including eggs, a Food Manufacturing Code permit is not required under MGL ch.94 s. 305C.
- **Farms selling only non-TCS foods:**
 - **Pre-packaged** non-TCS foods such as chips, candy, and canned beverages:
 - **Retail:** A Retail Food Code permit is not required.
 - **Wholesale:** If the farm is selling pre-packaged (not packaged at the farm), non-TCS foods for wholesale, a Food Manufacturing Code permit is required from DPH. Provisions of the wholesale code related to time/temperature controls will not apply.
 - **Non-pre-packaged**, non-TCS foods, including Cottage Foods:
 - **Retail:** A Retail Food Code permit is required from the LBOH. Some provisions of the Retail Food Code will not be applicable:
 - a Certified Food Protection Manager is not required
 - holding and cooking temperatures for finished food products are not applicable
 - hot and cold holding equipment is not required.
 - **Wholesale:** If the farm is processing and packaging non-TCS foods for wholesale, a Food Manufacturing Code permit is required from DPH. Provisions of the wholesale code related to time/temperature controls will not apply.
- **Farms selling high-risk foods** including meat, cream-filled pastries and pickled products:
 - **Retail:** A Retail Food Code permit is required from the LBOH.
 - **Wholesale:** A Food Manufacturing Code permit is required from DPH.

² Note that LBOH may adopt more stringent retail food regulations or ordinances, including requiring a permit where the state code would not require a permit.

Tools and Resources

- **Retail Food Sale:**
 - General Resources: <https://www.mass.gov/lists/retail-food>
 - Permit/Licensing Application: For a permit application, contact your Local Board of Health.
 - Guidance Documents: <https://www.mass.gov/lists/retail-food#food-code-guidance->

- **Food Wholesale:**
 - General Resources: <https://www.mass.gov/guides/starting-a-wholesale-food-business#resource-information-on-starting-a-wholesale-food-business->
 - Permit/Licensing Application: <https://www.mass.gov/guides/starting-a-wholesale-food-business#apply-for-initial-licensure-for-food-processing-and/or-distribution-at-wholesale->
 - Guidance Documents: <https://www.mass.gov/lists/food-processing#policies-and-guidelines->

- Additional resources for small food businesses are available through the University of Massachusetts New England Food Entrepreneurs: <http://www.umass.edu/nefe/>

For questions, contact your LBOH or the DPH Food Protection Program (FPP) at FPP.DPH@state.ma.us

VIII. Farm Visits

Over the Summer 2021 season, two visits were made to Massachusetts farms to learn first-hand about the challenges that our farmers faced when implementing agritourism programming on their properties.

On August 16, 2021, members of the Agritourism Study Commission visited the Barn at Bradstreet Farm located in Rowley. While serving as a popular wedding venue, it is a fully functional and working farm spanning 22 acres. Additionally, the property has trails for recreational opportunities including bird watching and hiking. Owner Michael Sabatini and Events Manager Tiffany Learned showed the members around the property pointing out ways that the farm has diversified by their recent addition of grape vines and Christmas tree plants to diversify their offerings. Challenges that the farm has encountered include zoning due to their unique and alternative model of leasing their land out to farmers who grow various crops that the Barn at Bradstreet in turn purchases to serve at their wedding events.



From L to R: Chris Chisholm (MDAR Staff), Erin Williams (Bogside Acres), Derek Dunlea (Office of State Representative Carole Fiola), Phu Mai (MDAR Staff), Brad Mitchell (MA Farm Bureau), Ashley Randle (MDAR Deputy Commissioner), State Senator Bruce Tarr, Michael Sabatini (Owner), State Senator Edward Kennedy, Tiffany Learned (Events Manager at Bradstreet)

On September 16, 2021, members of the Agritourism Study Commission visited Carlson Orchards in Harvard. Founded in 1936, the farm grows fruit on 100 acres of land producing apples, peaches, nectarines, blueberries, raspberries, and sweet cherries. Over the years, the farm has diversified to include several agritourism programming and attractions including Pick-Your-Own (PYO) fruit, wagon rides, weddings, and most recently a newly constructed cider barn and tasting room for the public to come and enjoy the many varieties of hard cider that they produce.

Commission members met with owner, Frank Carlson, who discussed with the group the challenges he faced when constructing his new cider barn and tasting room with respect to frustrations encountered at the state and local level regarding building and fire codes. During the pre-construction phase, local officials deemed that the new structure did not require a sprinkler system. After construction, fire department officials inspected the structure and claimed it was not in compliance and needed to have sprinklers installed, contradicting the previous advisement. Despite an appeal challenge, Mr. Carlson did not prevail in his request. As a result, the farm was forced to spend over \$200,000 in retrofitted costs to install sprinklers due to no fault of their own.

IX. Outcomes and Recommendations

As Massachusetts farms struggle to remain viable in the 21st Century, agritourism activities and programming provide a wonderful and experiential way for the farm to promote themselves to a public that studies show know less and less about how and where their food is produced. Instead of putting up roadblocks and conveying inaccurate information to those interested in pursuing agritourism activities on their farms, the Commonwealth should welcome and support agritourism initiatives as they serve a greater good that benefits all, providing the people of Massachusetts with fresh locally grown produce and products while the farm is allowed to diversify and flourish, becoming more profitable to ensure their posterity and the survival of agriculture in the region. Zoning regulations and building codes need to be applied fairly and accurately across the Commonwealth with regard to agritourism, with the understanding that farms want to provide a safe space for the public to visit and are happy and willing to provide reasonable accommodations and be in compliance with safety measures. Among the other recommendations and guidance put forth in this report, a re-examination of Massachusetts General Law (MGL) Chapter 40A, Section 3 (c.40A § 3) is also recommended to add agritourism language.

X. Appendix: Meeting Minutes

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



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KARYN E. POLITO
Lt. Governor

KATHLEEN A. THEOHARIDES
Secretary

JOHN LEBEAUX
Commissioner

MEETING MINUTES
MASSACHUSETTS AGRICULTURAL TOURISM STUDY
COMMISSION

Monday, December 14, 2020
Via Zoom

Board Members in Attendance: Chair John Lebeaux, Yael Langer on behalf of Senator Anne Gobi, Senator Edward Kennedy, Keiko Orrall, Brad Mitchell, Colin McDonald on behalf of Rep. Pignatelli, Michael Moore, Karen Schwalbe

Absent: Representative Paul McMurtry, Erin Williams, Nathan L'Etoile

MDAR Staff in attendance: Christine Smith, Mary Jordan, Ashley Davies, Delia Delongchamp, Phu Mai, Julie Weiss, Gerard Kennedy, Ashley Randle

1. **Call to Order:** The meeting started at 1:04 pm, with full remote participation.
2. **Approval of the minutes from the last meeting on November 16, 2020.**

Senator Kennedy made a motion to approve the minutes from the last meeting, which was seconded by Karen Schwalbe. The vote to approve the minutes was unanimous.

3. **Industry Updates.**

Chair Lebeaux reported on the Christmas Tree industry. He stated that sales have been high as people are anxious to get outside. Some farms reported busiest day in history prior to Thanksgiving. Many farms have sold out and others are selling out both at MA farms and others who are selling at lots. There is increased demand for live Christmas trees this year.

Brad Mitchell agreed with the assessment that some farms and agritourism have had a good year. But for those farms who sell to the restaurant industry it has been a difficult year due to COVID. Chair Lebeaux agreed.

Keiko Orrall updated the group that ag resources have been added to the MyLocalMA.com web page, Mass Farmers Market, Mass Specialty Foods, SEMAP and others have been added to promote focusing on local community. The MyLocalMA campaign will run through June 2021.

Keiko Orrall asked if there are other groups that should be included to let her know. She appreciates that the MDAR team is using #mylocalma. She reported continuing discussions with restaurants as things move forward.

4. Final Report: Subcommittee Updates

National Issues Subcommittee

Chair Lebeaux reported that this subcommittee had discussed an agritourism definition.

Yael Langer reported that she worked with the National Council on State Legislatures to gather information. The Ohio definition was favored by the subcommittee. She posted a copy of that into the Zoom chat:

"Ohio - Ohio Rev. Code Ann. §901.80

Ohio defines agritourism as an agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity. An agritourism provider is immune from liability for any harm a participant sustains during an agritourism activity if the participant is harmed as a result of a risk inherent in an agritourism activity."

Yael Langer reported that the subcommittee felt it was important to have a definition rather than having it defined for us by the courts. The Ohio definition left out the word "experience" and there was a thought that this should be added in.

Chair Lebeaux wondered if the second sentence of the definition is necessary or is in proper form since there are some laws on the books regarding liability.

Brad Mitchell did say that there are some liability laws on the books already.

Chair Lebeaux asked for a discussion focusing on the first sentence.

Keiko Orrall suggested that "experience" could be added in within the sentence that ends in "enjoy that activity."

Chair Lebeaux asked for input from the rest of the Commission. Brad Mitchell agreed that a definition was needed and agreed that this was a pretty good and broad definition. Senator Kennedy agreed.

Chair Lebeaux asked for a motion to take the first sentence from the Ohio definition, to include experience. Yael Langer and Karen Schwalbe added it to the chat:

"Massachusetts defines agritourism as an agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, experience, or enjoy that activity."

Motion made by Karen Schwalbe to adopt the above definition, seconded by Sen. Kennedy. Vote was unanimous.

Chair Lebeaux stated that relative to liability he is going to ask MDAR Legal to report back on existing liability statutes so that the Commission can discuss whether additional liability language would need to be included.

Regulations Subcommittee.

Brad Mitchell reported that there was a discussion regarding zoning and some confusion about how agritourism plays into zoning and whether it would be protected under MGL c. 40a section 3. Farms are largely exempt from local zoning under this statute. The zoning issue comes up often as a conflict with agritourism. The subcommittee suggested adding language to MGL c.128 section 1(a) to clarify what activities are legitimate agritourism activities. He noted that if, for example, there was a wedding, it needs to be related to promoting the farm products or it needs to be a minority portion of the income on the farm.

Chair Lebeaux agreed that MGL c. 128 section1(a) was the way to go rather than amending MBL c. 40(a) which could be more contentious.

Brad Mitchell asked if we should propose this now as we are coming up on new legislative session or where do we go from here.

Chair Lebeaux stated that the legislation called on the Committee to file a final report which would include suggested legislation. However, it was supposed to be completed by December 2019, but the Commission was not fully constituted until well until middle of 2020. He thought there was some flexibility to advance legislation.

Sen. Kennedy stated that he would be happy to file anything that the Commission suggested. He does not see any harm in filing it separate from the report.

Yael Langer reported from Sen. Gobi that the date for filing is January 15th. She stated it is better to be sure we are filing what we really want the language to be rather than rushing to make it by a specific date.

Yael Langer stated there is a deadline for anything to be seasonably filed and that automatically gets sent to committee. However, bills can also be late filed but need to ask Rules Committee for permission to do so. She stated that while it is advantageous to file by the deadline it is certainly not a hard stop.

Sen Kennedy stated we could do both things by filing one by deadline and then late filing and replace with new legislation.

Brad Mitchell suggested that would be a good way to approach it as Rep. Pignatelli is Chairman and likely to remain Chairman.

Chair Lebeaux noted that the Commission is not likely to meet before January 15th so asked how comfortable the Commission was to authorize filing of legislation.

Yael Langer asked if this matter was the only thing that needed to be filed. She stated that it is likely that there are other things needing to be filed and warned against multiple bills.

Sen. Kennedy suggested a meeting just prior to January 15 and it would give people time to look at everything in advance and decide.

Chair Lebeaux asked about process and asked if Sen. Kennedy would like MDAR to work on suggested statutory language. Sen. Kennedy agreed that would be a good idea and that his office would also work with Sen. Gobi's office.

Chair Lebeaux asked if we could work on this and then take up on a meeting prior to January 15th.

5. New Business

Chairman Lebeaux asked if there was any new business. There was none.

7. Next Meeting

There will be a meeting scheduled for early January. He also suggested January 25 for the next general meeting.

8. Adjournment

Karen Schwalbe called for a vote to adjourn. Sen Kennedy seconded. The vote to adjourn was unanimous. Meeting was adjourned at 1:42 pm.

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MEETING MINUTES
MASSACHUSETTS AGRICULTURAL TOURISM STUDY
COMMISSION

Monday, January 25, 2021
Via Zoom

Board Members in Attendance: Chair John Lebeaux, Yael Langer on behalf of Senator Anne Gobi, Dominik Lay on behalf of Senator Edward Kennedy, Keiko Orrall, Brad Mitchell, Nathan L'Etoile, Colin McDonald on behalf of Rep. Pignatelli, Michael Moore, Karen Schwalbe

Absent: Representative Paul McMurtry, Erin Williams

MDAR Staff in attendance: Christine Smith, Ashley Randle, Mary Jordan, Delia Delongchamp, Phu Mai, Alisha Bouchard

1. **Call to Order:** The meeting started at 1:04 pm, with full remote participation.
2. **Approval of the minutes from the last meeting on December 14, 2020.**

Michael Moore made a motion to approve the minutes from the last meeting, which was seconded by Karen Schwalbe. The vote to approve the minutes was unanimous.

3. **Industry Updates.**

Karen Schwalbe stated that she was cautiously optimistic about the COVID-19 vaccine and planning for spring and summer farmers' markets.

Keiko Orrall agreed and added that there were upcoming recovery grants from the Office of Travel and Tourism. The grant is open through mid-February.

4. **Final Report: Subcommittee Updates**

Ashley Randle stated that there are two subcommittees - Regulatory Subcommittee and National Policy Subcommittee.

Brad Mitchell reported from Regulatory Subcommittee that the focus has been on zoning, which is the biggest barrier that will need to be addressed, along with a change in definition of 128(1)(a). The food and alcohol issues were also discussed along with discussion about waiver of liability that is used by other states. They felt it was not appropriate to give liability waivers for certain activities that exist outside of the agritourism space (i.e., weddings) so did not want to create a different level of liability for those activities.

The National Policy Subcommittee focused on legislation but that will be covered in New Business.

5. New Business

Yael Langer of Sen. Gobi's office reported that they had been approached by a BU professor who teaches a course about law and policy about having a student work on a research project for the office. They took him up on his offer and the student did some research on agritourism, along with a model bill. The student talks about main barrier to agritourism being APR land, along with Tax issues, followed by liability issues and zoning matters. She also mentioned the allowance for solar panels on the farm, limited by percentage of use and suggested using a similar model for events. Yael Langer suggested that everyone review the document and felt that it would provide a helpful framework.

Chair Lebeaux reminded the group that February 19 is the date for initial filings. He reminded the group too that they were looking at language from other states. There were discussions about Sen. Kennedy filing bill, in conjunction with Sen. Gobi. Chair Lebeaux asked for an update about filing legislation.

Dominik Lay reported from Sen. Kennedy's office that he was not aware of the status of the filing but that he would check with Sen. Kennedy.

Chair Lebeaux asked how the report would help with a filing for a bill in February and do they have time to pivot to adding information from this report to a bill.

Yael Langer stated that there is no harm in filing in February, perhaps just a definition, but that it would also not be a problem to come up with additional language.

Brad Mitchell agreed with Yael Langer. He stated they do need a definition but that there are other matters that would be good to address as well. The definition could be a place holder and other language could be added in committee or at some other point.

Nathan L'Etoile agreed that the definition would be a good place to start.

Yael Langer did give caution that language change in committee technically happens after public comment and so adding in language in committee might not be well-received if there had not been public comment on that additional language. She asked if perhaps they could put more together before February 19th.

Keiko Orrall agreed with Yael's assessment and thought it best to have more comprehensive language.

Yael Langer suggested that if the committee does not have more information by Feb. 19th, the other language could be filed as a separate bill and then make a request to combine the bills so both would get a public hearing. Keiko agreed with that as well.

Chair Lebeaux supported this last suggestion. The members present generally agreed with this approach.

Yael Langer stated that at the last meeting the group had thought the filing date was January 15th and that Sen. Kennedy would file the legislation for the definition. The date had been since changed to Feb. 19th.

Yael Langer requested that the members provide comment on the report that had been provided so that there is agreement on what else needed to be added for legislation.

Brad Mitchell agreed, stating the liability concerns would be something that might need to be added in.

Yael Langer reiterated that she thought there were other proposals within the report that she would hope people with more expertise would look at.

Michael Moore liked the table that broke down different activities and also the reference to working farms. He liked the identification of peripheral activities as well.

Karen Schwalbe agreed that there was a lot to take in.

Chair Lebeaux stated that all members now had an assignment to read the report and use it as a basis for what they want to discuss at the next meeting for what they want to add to the legislation.

Dominik Lay asked if someone could email him the definition language that they wanted to be filed as legislation. Chair Lebeaux stated that someone could send it to him.

6. Next Meeting

Brad Mitchell and Yael asked if they could meet prior to the filing deadline so they could possibly put more together. Ashley Randle suggested February 8th, which would be a week earlier than usual, with February 15th being the President's Day holiday. Chair Lebeaux stated that an email invitation would be sent for that date.

Keiko Orrall asked about when they would be filing a report. Ashley Randle said they had decided earlier on a June filing for the report.

7. Adjournment

Karen Schwalbe made a motion for a vote to adjourn. The motion was seconded by Brad Mitchell. The vote to adjourn was unanimous. Meeting was adjourned at 1:38 pm.

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MEETING MINUTES
MASSACHUSETTS AGRITOURISM STUDY COMMISSION

Monday, February 8, 2021
Via Zoom

Board Members in Attendance: Chair John Lebeaux, Senator Anne Gobi, Keiko Orrall, Brad Mitchell, Nathan L'Etoile, Colin McDonald on behalf of Rep. Pignatelli, Michael Moore, Karen Schwalbe, Senator Edward Kennedy (joined late)

Also in Attendance: Yael Langer from Senator Anne Gobi's office, Dominik Lay and James Ostis on behalf of Senator Edward Kennedy's office

Absent: Representative Paul McMurtry, Erin Williams

MDAR Staff in attendance: Christine Smith, Ashley Randle, Mary Jordan, Caroline Raisler, Gerard Kennedy, Phu Mai, Alisha Bouchard, Delia Delongchamp

1. **Call to Order:** The meeting started at 1:04 pm, with full remote participation.
2. **Approval of the minutes from the last meeting on January 25, 2021.**

Sen. Gobi made a motion to approve the minutes from the last meeting, which was seconded by James Ostis. The vote to approve the minutes was unanimous.

3. **Industry Updates.**

Chair Lebeaux noted that Maple Month is approaching.

Brad Mitchell agreed not much happening this time of year but reported on a story he heard about a farm in England who was renting their goats out for Zoom calls.

Nathan L'Etoile noted that some of the actions that were taken up to make things easier during COVID, such as direct shipment for breweries within Massachusetts may be valuable to keep in place after COVID. Chair Lebeaux agreed it would be something to consider and warrants further discussion. Keiko Orrall stated that she has heard similar requests as we move out of COVID.

Keiko Orrall reminded the group that the Travel and Tourism grant for marketing closes on Friday. They have had a positive response to the grant and wanted to make sure that the agritourism folks knew that this was out there. She thought there could potentially be a place where farms and agriculture would fit into these grants in the future.

4. Old Business

a. An Act to Promote Agritourism Report ("Report")

Chair Lebeaux noted that there were several references in the Report to protected APR land and how legislation might impact protected land. He noted that the APR staff had reviewed the document and had some comments as it pertains to the APR Program.

Gerard Kennedy, Director of the Division of Agricultural Conservation and Technical Assistance, which includes the APR Program, spoke on behalf of the program and noted that the report did a good job covering the issues. He said that there were some clarifications to make regarding APRs, particularly surrounding structures, federal program requirements, how to make sure that the agritourism activity did not become the primary use, and value. He noted that structures such as farm stands are allowed in the APRs as agricultural structures. Mr. Kennedy also noted that Federal government limits impervious surface limits on the APRs they hold and that going forward they are holding strict on a limit of 2% impervious surface limits, so the planning around structures is important in considering these limitations and pointed out that the report discussed agritourism buildings which would impact impervious surface calculations on the property. The issue is to how to determine whether agritourism use was principal use of the property was not covered. Finally, he stated that it was possible that if 61A was amended to include agritourism then it could have an impact on value and could possibly reduce the APR value, which would be a concern.

Brad Mitchell asked Gerard for his comments on the Report be provided to the Commission. He also stated he met with the new NRCS director and said that he was encouraging people to request impervious surface limit if farmers felt it was needed.

Nathan L'Etoile said he felt the document was helpful to clarify marketing versus tourism related to the agricultural products and also agriculture at tourism destinations. He felt all of it may be helpful to agriculture but that the commission should think through how they would handle different matters.

Karen Schwalbe found the document helpful in thinking about the task that the Commission has before them. She said she thought that in terms of the definition they were using, the report highlighted that there was more work to do.

5. New Business

a. Legislation Update

James Ostis stated that he wanted clarification on what legislation needed to be filed by Senator Kennedy regarding the Agritourism definition.

Chair Lebeaux stated that the plan was to move forward with the definition and that there might be a chance to enhance the legislation in another piece of legislation that might be later joined to the legislation definition.

Senator Kennedy stated that they were ready to file the legislation but then received a lot of emails with changes to the definition so they wanted to make sure that what they filed would be worthwhile.

James Ostis stated that the bill they had ready was to add a new section to Chapter 128 that defines Agritourism but wanted to be sure that is what the Commission wanted.

Brad Mitchell stated that he had some concerns regarding zoning but those details were not completely sorted out yet.

James Ostis asked if they were jumping the gun in filing the legislation but was willing to file with the understanding that there may be some additional changes needed.

Karen Schwalbe had some questions about the bill itself. In the definition, she had a question about the part that said "open to the public" whether or not the public paid a fee and wanted some clarification.

Yael Langer clarified that the Report was just a document that was provided for discussion but the proposed legislative language in the Report was not the language that was being used for the legislation.

Nathan L'Etoile provided some clarification on the term "open to the public" and how it was used in different situations.

Colin McDonald asked if it would be helpful if James could post the definition in the chat so that everyone was working off the same definition. As posted in the chat, the language being discussed is as follows: "Massachusetts defines agritourism as an agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, experience, or enjoy that activity."

Yael Langer clarified that during the last meeting there was discussion about adding other matters to the legislation in addition to the definition.

Colin MacDonald stated that as Yael Langer had mentioned last meeting that the plan was to file legislation for the definition but that other items that come later may be combined with that further.

Senator Kennedy asked if we were agreed on the definition. The Chair asked everyone to look at the definition in the chat so that they could take a vote on the language.

Karen Schwalbe asked where the definition would go.

The Chair stated that he believed it go into Chapter 128. There was discussion if it should go into Section 1A or create a new Section 1B.

Yael Langer stated that typically that the legislation would include a suggestion as to where the definition would sit, provide with chapter and section.

Nathan L'Etoile thought that having a definition separately either as a second paragraph in 1A or in a new section 1B. He did think it was important to add "with or without a fee" to the definition.

Brad Mitchell stated that the one of the original reasons for looking at agritourism was to address zoning. His concern if the definition is included in Section 1A, then it would be viewed as another type of agriculture. He felt it should be in a different section so that when they did address zoning it would make it easier to distinguish.

Colin McDonald asked if the definition should just go into Chapter 128, Section 1, which contains all the definitions within the Chapter. He suggested that if they did that all sections using the term Agritourism would draw on the same definition.

Nathan L'Etoile said there might be resistance to add a definition if the word is not used elsewhere in the statute and suggested perhaps they could use the word elsewhere in the statute.

Colin McDonald suggested that then it could be added into the list in Section 1A.

Nathan L'Etoile said that was an option but wondered if it would not necessarily help Brad's concern.

Yael Langer stated that if they were filing other legislation during the session it could be just added as a definition and the other legislation would fix the issue of the word not being used.

Brad Mitchell thought Yael's suggestion was a better option.

Yael Langer asked about zoning and what part of MGL would the zoning section fit and asked if the definition needed to go there.

Brad Mitchell said Chapter 40A, Section 3 references Chapter 128, Section 1A and so if the definition is put in that section then it gets the same deference and it could cause other problems.

Yael Langer asked if within the zoning language it was referenced elsewhere then where should it be located.

Brad Mitchell stated that is why they were looking at Chapter 128, Section 1B was so that it would have its own section and not be in 1a and create a section 1b.

Yael asked if it is a new definition for 1 then do they also need a definition. Senator Gobi stated that both could be done.

Keiko Orrall asked if there was some place in the Tourism sections where this could fit better as a suggestion.

James Ostis had the same question. He noted that 1 and 1A both have definitions.

Yael agreed that since they both have definitions, there is no reason not to have a 1B that contains a definition. James agreed.

Chair Lebeaux noted that there is also a section 7 that contains definitions.

Yael Langer said she did not think it was an issue to create a new section for the agritourism definition and then if there is new language to be added later, then they had a new section set up where it could go.

Karen Schwalbe agreed that this approach made sense. Others agreed.

Motion made by Senator Kennedy that the Commission requests that the legislative delegation take the agreed upon language and propose legislation to add it to a new section 1B in MGL chapter 128. Seconded by Karen Schwalbe. Keiko Orrall asked about the definition itself and whether "with or without a fee" should be included. Senator Gobi stated she did not think it was necessary and suggested it could be added later as necessary. James Ostis clarified that the legislation would start with the words "Agritourism is defined as". The vote to approve the motion, as clarified, was unanimous.

6. Next Meeting

Ashley Randle suggested March 15 for the next meeting date. The Chair stated that a notification would be sent out.

7. Adjournment

Sen. Kennedy made a motion for a vote to adjourn. The motion was seconded by Karen Schwalbe. The vote to adjourn was unanimous. Meeting was adjourned at 1:57 pm.

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MEETING MINUTES
MASSACHUSETTS AGRITOURISM STUDY COMMISSION

Monday, March 15, 2021
Via Zoom

Board Members in Attendance: Chair John Lebeaux, Tyler Cotta on behalf of Rep. Fiola, James Ostis on behalf of Senator Edward Kennedy's office, Brad Mitchell, Erin Williams, Keiko Orrall, Colin McDonald on behalf of Rep. Dykema, Nathan L'Etoile, Michael Moore, Caroline Sherrard on behalf of Sen. Rausch, Karen Schwalbe

Also in Attendance: Yael Langer from Sen. Anne Gobi's office, Sen. Anne Gobi

MDAR Staff in attendance: Christine Smith, Ashley Randle, Mary Jordan, Rick LeBlanc, Phu Mai, Delia Delongchamp

1. **Call to Order:** The meeting started at 1:02 pm, with full remote participation.
2. **Approval of the minutes from the last meeting on February 8, 2021.**

Keiko Orrall made a motion to approve the minutes from the last meeting, which was seconded by Nathan L'Etoile. The vote to approve the minutes was unanimous.

3. **Industry Updates.**

Chair Lebeaux shared that it was Maple Month, which had gotten off to a great start. There was a kickoff last Friday in Royalston. Last Monday there was touring of sugar houses in Western part of the state. There was not as big a crowd as typical due to COVID but they were able to hold these events socially-distanced.

Erin Williams noted that she was already receiving inquiries around harvest tours from out-of-state tourists. She is hearing that hotels are being booked. Their bog tour dates are not typically released until July. She also attended the virtual conference on agritourism, which noted increase in weekday participation of events due to remote work and remote school.

Karen Schwalbe reported that Farmer's Markets are starting to report opening dates. Non-food vendors are being held off. No big events being planned yet.

4. Old Business

a. An Act to Promote Agritourism Report ("Report")

Gerard Kennedy had sent out APR staff comments on the report. Ashley asked if the members had a chance to read the report, with comments, which had been attached to the meeting invitation. Ashley stated that Gerard was on another meeting but hoped to join when that one was done.

Brad Mitchell stated that he had not had a chance to read completely yet.

The matter was tabled to discussion at the next meeting to give everyone a chance to read it.

5. New Business

a. Legislative Update

James Ostis reported that there was a consensus decision to file a bill that would add language defining agritourism. There is some concern that a definition alone would not reach the entire scope of what the Commission is doing. The anticipation is that there would be further legislation filed. Senate Docket 1325 – An Act Defining Agritourism has been filed; no bill number has been assigned yet. James read the text of the filed legislation. Sen. Gobi & Sen. Kennedy and Rep. McMurtry & Rep. Kennedy filed the legislation prior to reconfiguration of Commission. There are 10 cosponsors of the legislation.

b. Ag Promotional Signage Presentation

Phu Mai, Agritourism Coordinator from the MDAR Markets Division gave a presentation on the Massachusetts Agricultural Directional Signage Program. This program was put together as a means to promote agritourism in the Commonwealth. The program is done in collaboration with Mass DOT. The signs feature the Mass Grown and Fresher logo, along with product icons appropriate to the relative farm. The program started in the late 1990s. There is no cost to the Commonwealth for the program. If approved, the farm incurs the cost to create and install the sign. Challenges exist around municipal by-laws which might prohibit signs in urban areas, where Mass DOT rules do not allow signs. MDAR is in early stages of meeting with Mass DOT regarding these challenges.

Chair Lebeaux asked if there was a population requirement. Phu answered that municipalities with a population of less than 20,000 are deemed non-urban. However, there are some municipalities with a lower population where part of the town is considered urban and signs have been denied in those situations.

Keiko Orrall asked if the fee structure was a one-time fee. Phu answered that it was a one-time fee for installation and maintenance.

Brad asked about the rule regarding urban or non-urban. Phu said that when the program started it used the existing tourism. Brad was curious about why the rule exists. Brad also asked whether farms could share signs and share the costs. Phu stated that if there is an existing sign and someone wants to add on to it that sometimes the initial fee is waived.

Chair Lebeaux stated that Brad raised some good points about what appears to be an arbitrary standard to promote only rural farms. He noted that we have many traditional farms located within cities, not to mention the Urban Ag farms. He re-stated that MDAR is re-engaging with Mass DOT over these issues. He stated that the Commission could consider taking some action of support regarding the program.

Colin McDonald asked whether it was completely within Mass DOT's power to change this restriction or is established by statute or otherwise? Chair Lebeaux stated that the program was established as an MOU between the two agencies so he thinks it can be changed. The Commissioner also stated that Mass DOT may not be aware of the limitations, which is why they are reaching out to Mass DOT.

Brad Mitchell stated that MDAR should let the Commission know if they can help.

Keiko Orrall asked how the decision was made – whether it was state-wide or on the district level? Phu answered that it was made on the district level. Keiko Orrall replied that any new guidelines would have to come from above the district level.

c. Subcommittees

Ashley stated that the subcommittees would try to meet before the next meeting and would be able to provide updates from those meetings.

Brad Mitchell stated that the Regulatory Subcommittee needed to meet to discuss zoning.

d. Other Topics

Brad stated that there has been a lot of discussion around breweries and farms and thought it would be helpful to have further discussion around this, asking Nathan L'Etoile to comment. Nathan said it would be a good topic for another meeting but would be happy to have as an agenda item for a future meeting but that he had to leave this meeting shortly for another meeting.

Erin Williams asked about food preparation and food service and the concept behind “cottage kitchens” and food trucks as part of an ag-related operation. She said that different answers/level of knowledge exists between Boards of Health in different towns. She wondered if there were existing resources that could be shared.

Brad Mitchell agreed with Erin that many towns are not sure how to handle these matters.

Yael Langer stated that there is a bill filed regarding cottage food opportunities and provided the link in the chat. It is SD 806/HD1298.

6. Next Meeting

Chair Lebeaux suggested April 26 for the next meeting date. He stated that a notification would be sent out.

7. Adjournment

Karen Schwalbe made a motion for a vote to adjourn. The motion was seconded by Brad Mitchell. The vote to adjourn was unanimous. Meeting was adjourned at 2:00 pm.

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MEETING MINUTES
MASSACHUSETTS AGRITOURISM STUDY COMMISSION

Monday, April 26, 2021
Via Zoom

Board Members in Attendance: Chair John Lebeaux, Tyler Cotta on behalf of Rep. Fiola, James Ostis on behalf of Senator Edward Kennedy's office, Brad Mitchell, Derek Dunlea on behalf of Rep. Fiola, Keiko Orrall, Colin McDonald on behalf of Rep. Dykema, Nathan L'Etoile, Michael Moore, Matt Douglass on behalf of Sen. Rausch, Karen Schwalbe, Sen. Kennedy

Absent: Erin Williams

Also in Attendance: Amy Parker, Sen. Gobi, Rep. Pignatelli, Isabel Bennett

MDAR Staff in attendance: Christine Smith, Ashley Randle, Mary Jordan, Rick LeBlanc, Phu Mai, Delia Delongchamp, Tina Smith, Alisha Bouchard

1. **Call to Order:** The meeting started at 1:02 pm, with full remote participation.

2. **Approval of the minutes from the last meeting on March 15, 2021.**

Karen Schwalbe made a motion to approve the minutes from the last meeting, which was seconded by Keiko Orrall. The vote to approve the minutes was unanimous.

3. **Industry Updates.**

There were no industry updates.

4. **Old Business**

a. **An Act to Promote Agritourism Report – APR Program Comments**

At the previous meeting, there was a request to table the discussion of the APR Program comments on the Agritourism Report until this meeting. The Chair asked if there were comments.

Brad Mitchell responded that he was the one who had asked to table the discussion, that he had a chance to review but had no further comments.

5. **New Business**

a. Farm Breweries Discussion

Nathan L'Etoile clarified that Brad Mitchell had asked at the last meeting about agritourism and farm breweries but Nathan had to leave the previous meeting early so it was continued for this meeting.

Brad Mitchell stated that the zoning exemption allows for some income that is not related to production on the farm, but some breweries go above that allowance and there is confusion on the application of the zoning exemption.

Nathan L'Etoile stated that there are a lot of different players in this space. ABCC is the entity that licenses the breweries. On the application, there is a box where you can check off farm brewery if you grow hops. The winery application does not even require the applicant to grow grapes. In order to have a farm brewery, you do not have to use ingredients grown on the property in the beer. Some farms have a lot of ties to local ingredients and others do not, but there is no statutory requirement. Part of the agritourism discussion is to figure out how breweries fit into the regulatory framework. Nathan stated that any discussion of what is classified as farm brewery should involve ABCC. However, the use of farm products and breweries should be part of the agritourism discussion.

Brad Mitchell said that the issues he sees for farm breweries, wineries and distilleries are surrounding the zoning exemption and what is allowed in a residential neighborhood under zoning. Nathan L'Etoile agreed that the language is ambiguous.

Nathan L'Etoile stated that he has a farm brewery on his farm and that the majority of ingredients he uses are grown on the farm. Most other breweries, however, have different ratios of products grown on the farm. He said many farm breweries are a great way to get visitors to the farm and that other farm products are sold to those visitors to the farm.

Brad Mitchell pointed out it is more challenging for wineries since many grapes cannot be grown in this area.

Nathan L'Etoile stated that for licensing there is no requirement for the grapes to be grown on site or in Massachusetts.

The Commissioner asked if it made sense to talk with someone from the ABCC. Nathan L'Etoile stated it only made sense if we want to change the definition. Otherwise, if it is zoning and breweries/wineries on APR land, then the ABCC would not be needed. Keiko Orrall and Brad Mitchell agreed.

Nathan L'Etoile said the confusion comes from being called a farm brewery or farm winery but not being exempt under the zoning exemption because some of them are not actually farms.

Keiko Orrall asked if the question surrounding breweries and wineries is an agritourism issue because it is a way for farms to expand business but the zoning issue is confusing.

Brad Mitchell said yes and that he can see both sides of the issue – why a farm brewery would want to be considered a farm but also why the municipality would not think that the zoning would apply to certain farm breweries.

Keiko Orrall asked if there were clarity around the zoning would that help. The answer is yes but there is no consensus on where members want the zoning to come out.

The Chair suggested that this might warrant further discussion on the subcommittee level. Nathan L'Etoile suggested having the zoning regulatory subcommittee consider incorporating this issue. He added that there are probably some issues concerning current use taxation.

b. Cottage Food/Commercial Kitchens and BOH

Erin Williams had wanted to discuss this matter but she was unable to make this meeting so this will be pushed off until the next meeting.

Brad Mitchell noted that there is some legislation that has been filed and asked if Michael Moore had some input. Michael Moore said that his department had not taken a position on that legislation yet.

Brad Mitchell said he had some articles to share on this topic. Chair LeBeaux stated that Brad could send him the articles and he would see that they got distributed to the group.

c. Building Code Discussion – Michael Smolak

Michael Smolak had requested to address the Commission but was not able to attend this meeting.

d. Travel and Tourism Grants

Keiko Orrall announced that the Office of Travel and Tourism is offering a new grant program, Destination Development Capital Grants. These grants support projects to expand, construct, restore or renovate Massachusetts tourism destinations and attractions. The grant closes May 21 and would include agritourism destinations and attractions.

6. Next Meeting

Chair Lebeaux suggested May 17 for the next meeting date. He stated that a notification would be sent out.

7. Adjournment

Sen Kennedy made a motion for a vote to adjourn. The motion was seconded by Brad Mitchell. The vote to adjourn was unanimous. Meeting was adjourned at 1:33 pm.

THE COMMONWEALTH OF MASSACHUSETTS
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MEETING MINUTES
MASSACHUSETTS AGRITOURISM STUDY COMMISSION

Monday, May 17, 2021
Via Zoom

Board Members in Attendance: Chair John Lebeaux, Erin Williams, James Ostis on behalf of Senator Edward Kennedy's office, Brad Mitchell, Derek Dunlea on behalf of Rep. Fiola, Keiko Orrall, Shannon Emmett on behalf of Rep. Dykema, Nathan L'Etoile, Matt Douglass on behalf of Sen. Rausch, Karen Schwalbe, Michael Moore (arrived late)

Absent: None

Also in Attendance: Michael Smolak, Amy Parker

MDAR Staff in attendance: Christine Smith, Ashley Randle, Phu Mai, Tina Smith

1. **Call to Order:** The meeting started at 1:04 pm, with full remote participation.
2. **Approval of the minutes from the last meeting on April 26, 2021.**

Karen Schwalbe made a motion to approve the minutes from the last meeting, which was seconded by Nathan L'Etoile. The vote to approve the minutes was unanimous.

3. **Industry Updates.**

Keiko Orrall provided an update that Travel and Tourism has a photo contest going on right now as well as a capital grant program. This is all posted on visitma.com. Also, there will be a program focused on restaurants starting May 29 called "Let's Go Out". She asked if there were restaurants in the agritourism arena, she said to have them reach out to be featured on the website. Keiko Orrall confirmed this included farm to table dinners.

Chair Lebeaux stated that the Governor just announced today that the Commonwealth's face covering mandate will be updated on May 29 and that DPH will update guidance in accordance with CDC. The Governor also announced he plans to end the State of Emergency on June 15. This might also impact the ability to meet remotely but there could be an updated legislative fix to allow remote meetings under the Open Meeting Law.

4. Old Business

There was no old business.

5. New Business

a. Cottage food/commercial kitchens and BOH

Erin Williams reviewed the legislation information and did not see that it varied much from what already existed.

Brad Mitchell thought this was all covered under residential kitchens and commercial kitchens and local BOH regulations.

Erin Williams stated that it was a topic that comes up often in farmer discussions and on agritourism pages and that it was an item of interest.

Brad Mitchell stated that he thought that the cottage kitchen rules aligned with residential kitchens with a retail component. He is not sure if the new legislation changes anything or if changes will be made in committee. Brad Mitchell thought Michael Moore could add insight, but he was not in attendance at the time of this discussion.

Michael Moore arrived late, and the Commission picked up this discussion again. Erin Williams asked for clarification on what the new cottage kitchen legislation will change from the existing residential kitchen legislation.

Michael Moore stated he had looked into it and could not comment on pending legislation.

b. Building Code Discussion – Michael Smolak/Kevin Hastings

Michael Smolak owns a farm in North Andover and has found that each municipality has its own set of rules. He ran into a building code issue with the Town regarding his barn and had to appeal to the Board of Appeals to overturn the Town's decision. He also had an issue with his plastic greenhouses where they could not allow people to sit down inside. So, he wanted to replace with polycarbonate, which the building department did not understand and so the project could not go forward. He said it is a problem in that farms do not comply with state codes and if they were held to that standard most would be out of business. He is looking for some backing and assistance with the building code issue as it would help all farms. He noted that the laws are archaic for what the farms do now.

Brad Mitchell agreed that this is a problem that his members encounter quite often. For example, he brought up an issue with a farm and orchard in Worcester County that has a cidery and was told that there was an issue under the fire code. He stated that the plumbing code is also a problem as farms fall under the commercial plumbing code.

Michael Smolak emphasized that the last thing any farm owner wants is for something to happen to their customers, so they are diligent about safety. He thinks there is a need for a fix.

Brad Mitchell noted that they are in the process of re-writing the building code. He also noted that there is legislation pending to look at the plumbing code.

Michael Smolak has a draft of some proposed fixes as far as the greenhouses go. He also stated that support from Travel and Tourism would help as well.

Brad Mitchell asked Michael Smolak to share the proposed changes with the group. Brad Mitchell also stated that he could share a link to the proposed plumbing changes. He added that there needs to be a change so that the fire department feels comfortable issuing approval.

Michael Smolak stated that he would get the language to the Commission in advance of the next meeting.

Erin Williams asked what appeal process was when they got the use of the barn back.

Michael Smolak said he made changes to the barn that the Town had said were required in order to sign off. When those items were done, the new Town inspector decided those changes were not good enough and also cited an issue with the greenhouses and brought in the State Fire Marshall. He said it was the State Building Board of Appeals that gave them ability to move forward. They required installation of pull fire alarms and also a training he was required to attend.

Erin Williams said that her town had a similar approach but at more restrictive numbers. She noted that crowd control and fire prevention were the biggest issues she has seen.

Michael Smolak stated that agriculture is different from other businesses and that a lot of these activities have been going on for a long time.

c. PYO Guidance

Chair Lebeaux noted that this is changing as we speak with the Governor's announcement this morning on changes to the mask mandate and lifting of the Emergency Order in June. He stated that there may not be a need for new guidance.

Michael Smolak agreed that the guidance might become a moot point. He thought a primer on a "how to" would be good for farmers.

Chair Lebeaux stated that last year they were able to put together protocols and that the industry was able to move forward.

Michael Smolak said he felt that the Department did a great job keeping the farmers informed.

Brad Mitchell said he was discussing whether they should still have guidance since Boards of Health are able to implement their own restrictions. He was hoping the BOH would be satisfied with the Governor's declaration.

Chair Lebeaux said they heard similar concerns from farmers' markets. He said that it seems that most of these restrictions will be going away.

d. Subcommittees

Chair Lebeaux noted that there has been no subcommittee activity recently and apologized that it was a capacity issue. He said that they are talking about getting some more staff support for the commission.

Brad Mitchell stated that there is pending legislation and that the regulatory subcommittee could meet to flesh out the language on the pending legislation. Chair Lebeaux agreed that this would be a priority.

Michael Smolak said that he has reached out to other farms to see how they could work together to support each other but that some are leery of doing that for fear that they will be losing business. He said that they can support each other and all farms benefit. He also reached out to Mary Jordan about having a cider donut contest state-wide. He said it highlights farms and brings people out to the farms. He also thought Travel and Tourism could be used to support tours to farms.

Ashley Randle said she would be in touch regarding subcommittee assignments.

6. Next Meeting

Chair Lebeaux suggested June 21 for the next meeting date. He stated that a notification would be sent out.

7. Adjournment

Brad Mitchell made a motion for a vote to adjourn. The motion was seconded by Erin Williams. The vote to adjourn was unanimous. Meeting was adjourned at 1:49 pm.

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MEETING MINUTES
MASSACHUSETTS AGRITOURISM STUDY COMMISSION

Monday, July 12, 2021
Via Zoom

Board Members in Attendance: Chair John Lebeaux, Erin Williams, James Ostis on behalf of Senator Edward Kennedy's office, Brad Mitchell, Derek Dunlea on behalf of Rep. Fiola, Keiko Orrall, Shannon Emmett on behalf of Rep. Dykema, Matt Douglass on behalf of Sen. Rausch, Karen Schwalbe, Michael Moore (arrived late)

Absent: Nathan L'Etoile

Also in attendance: Yael Langer on behalf of Senator Gobi

MDAR Staff in attendance: Mary Jordan, Ashley Randle, Tina Smith

1. **Call to Order:** The meeting started at 2:03 pm, with full remote participation.
2. **Approval of the minutes from the last meeting on May 17, 2021.**

Karen Schwalbe made a motion to approve the minutes from the last meeting, which was seconded by Brad Mitchell. The vote to approve the minutes was unanimous.

3. **Industry Updates.**

Karen Schwalbe provided an update regarding the upcoming Barnstable Fair. Ticket sales have been good so far, but it has been difficult to find judges for contests and volunteers. There may be an opportunity for agricultural fairs/fair leadership to work with MDAR for promotional and outreach purposes.

Mary Jordan stated that there is an update to the bylaws that is forthcoming and she would be happy to connect Ms. Schwalbe with Fran Pearson, MDAR Ag Fairs Coordinator. Also, MDAR has a judges list for fairs and will share with Ms. Schwalbe.

Director Keiko Orrall noted that there were recovery grants available with some available for agriculture. There were also destination development capital grants and the opportunity for agritourism businesses to apply in FY2023.

4. Old Business

There was no old business.

5. New Business

a. Meeting Sites and Tours

Chair Lebeaux indicated that it would be beneficial for the Commission members to visit agritourism sites and discuss with them the challenges they have experienced in starting their agritourism ventures. There has also been interest from members and sites that have indicated their willingness to host.

Yael Langer noted that transportation may be an issue for some Commission members that do not have access to a vehicle or public transportation to event sites. She inquired if some members would be interested in carpooling or discussing travel plans more prior to tours.

Erin Williams stated that she has worked with groups to coordinate tours for individuals that reside in cities and connecting them with rental car companies. There is also the opportunity for members to utilize Uber/Lyft to get to tour sites. Accessibility is also a consideration for host sites.

Ms. Langer noted that there are shuttles that may take groups/tours from T stops. It may be an opportunity for the Commission to have a bus/shuttle from a T stop to the agritourism tour site depending on location/accessibility to the T.

The members discussed potential tour sites and Ms. Williams noted that Bogside Acres would be willing to host. She also recommended Scott Sauchuk/Sauchuk Farm, Holmes Homestead, and Just Right Farm.

Chair Lebeaux noted that Bradstreet Farm, Red Apple Farm, and an agricultural fair would also be added to the list of potential tour sites.

b. Subcommittees: National Policies and Regulatory

Ashley Randle provided an update on the topics addressed in prior Subcommittee meetings, including zoning/40(a), Board of Health codes, definition of agritourism, legislation in other states regarding agritourism, and farmer wineries and breweries. She further noted that Phu Mai will be assisting with organizing future Subcommittee meetings.

Ms. Randle also noted that Rep. Blais has filed an amendment to extend the reporting deadline for the final report of the Commission to 12/31/21.

Ms. Williams indicated that there may be an opportunity to connect with the Cape Cod Cranberry Growers Association (CCCCGA) to host the committees and provide feedback based on their experiences with bog tours, festivals, etc.

Karen Schwalbe noted that she is willing to serve on either Subcommittee, and to assign her where her knowledge and experiences will be most useful.

Chair Lebeaux suggested holding a public hearing for the public to provide testimonials and written comments about agritourism activities in the state. He noted that an early September hearing may be best due to the final report deadline. It could be held in a hybrid model with the public attending in person or virtually. Written comments could be submitted through a later date.

c. Final Report

Chair Lebeaux noted that the Subcommittees will try to meet before the August full Commission meeting. It will be important for them to meet prior to the September meeting to generate content for the final report.

Derek Dunlea indicated that the public hearing would be helpful in generating material for the final report.

Keiko Orrall mentioned that the Tourism Committee just completed their report that could serve as a template for the Commission's final report.

Ms. Randle inquired about other topics beyond those that had previously been discussed by the Commission and Subcommittees to incorporate into final report.

Ms. Schwalbe suggested racial equity and diversity as topics to consider including in the final report.

6. Next Meeting

Chair Lebeaux suggested August 23rd for the next meeting date. He stated that a notification would be sent out, as well as information regarding another tour for Commission members to attend. The tour at Carlson Orchards will be rescheduled to September.

7. Adjournment

Karen Schwalbe made a motion for a vote to adjourn. The motion was seconded by Derek Dunlea. The vote to adjourn was unanimous. Meeting was adjourned at 2:41 pm.

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MEETING MINUTES
MASSACHUSETTS AGRITOURISM STUDY COMMISSION

Monday August 23, 2021
Via Zoom

Board Members in Attendance: Chair John Lebeaux, Erin Williams, Senator Edward Kennedy, Katelyn Parsons on behalf of Brad Mitchell, Derek Dunlea on behalf of Rep. Fiola, Karen Schwalbe, Michael Moore

Absent: Rep. Dykema, Sen. Rausch, Keiko Orrall, Nathan L'Etoile

Also in Attendance: Derek Silver on behalf of Sen. Gobi, Sen. Gobi, Amy Parker

MDAR Staff in attendance: Christine Smith, Ashley Randle, Phu Mai, Alisha Bouchard

1. Call to Order: The meeting started at 1:05 pm, with full remote participation.

2. Approval of the minutes from the last meeting on July 12, 2021.

Sen. Kennedy made a motion to approve the minutes from the last meeting, which was seconded by Karen Schwalbe. The vote to approve the minutes was unanimous.

3. Industry Updates.

Karen Schwalbe reported that the Barnstable County Fair had their best year ever. There have also been many other events on the Cape that have been well attended. Marshfield Fair just started this past weekend. Also, Karen noted that rain has been impacting events. SEMAP has decided to remain remote for all meetings for the rest of the year.

Chair Lebeaux noted that MDAR has attended several fairs over the past couple of weeks. Reports are that hot weather and also rain/tropical storms had impacted fairs.

4. Old Business

None.

5. New Business

a. Review/Update of Agritourism Study Commission Tour on 8/16

Ashley Randle reported on the tour. She reported that it was a fruitful conversation regarding collaborative farming. Michael Sabatini hosted the group. He owns a farm and also hosts weddings on the farm and tries to work mostly with local farmers. He also leases out fields to local farmers and sources the items grown to use in the weddings. She noted that the current regulations do not account for lessees and what they grow on the location vs. owner's production on the farm.

Derek Dunlea reported that the tour was very beneficial in knowing the issues they are bringing up in the Commission impacts the constituents on the ground.

Erin Williams added that it was interesting to see how other operations work and to see their creativity and collaboration.

Ashley Randle added that Phu Mai would be assisting with final report and would be including photos, case studies and reports from the tours in the final report.

Chair Lebeaux was not able to attend but was happy to hear that Mr. Sabatini has a successful operation on his farm as he was dealing with some issues when he was getting it up and running.

Sen Kennedy noted that one of the solutions that Mr. Sabatini had to address with the municipal issues was to go all electric, which was unique. He noted that the current legislation pending did not include weddings in its definition and wondered if they should include that in the definitions. He noted that the legislation hearings for S. 2245 should be heard in late September or early October.

b. Tour Locations and Dates

Chair Lebeaux stated that they hoped to schedule a tour at Carlson Orchards early in September. He said no others were scheduled but suggested that October might be a good time to tour a cranberry farm and asked Erin Williams to assist in scheduling.

c. Agricultural Fairs

Chair Lebeaux reported that there are a wide variety of fairs in the Commonwealth, with different business models. He noted that some are more secure than others financially but even some of the big ones used their reserves from 2019 because there were no fairs in 2020 and are low on funding and are facing other issues like volunteer shortages. There used to be funding through MDAR in the past for items like prize money but there is no financial support provided at this time. He stated that fairs need to be a component of the report, including both the cultural and agricultural heritage but also the economic spinoff/benefit from the fairs. Fairs can also introduce agriculture to the general public.

Erin noted that there had been a privately sponsored Cranberry Festival, much like a fair, that has decided not to go forward due to many of the issues that Chair Lebeaux mentioned.

Ashley Randle stated that the Department is working with the fairs to determine what their financials look like at the end of fair season and that we hope to use that information to include in the final report what the challenges are financially.

Chair Lebeaux noted that operating budgets are at risk as well as capital budgets. He noted that support of capital budgets would be helpful but that would leave still an issue with operating budgets.

Sen. Kennedy expressed an interest in receiving the financial information on fairs.

d. Final Report Discussion/Assignments

Chair Lebeaux noted that the deadline for a final report is approaching, noting that subcommittee meetings have been difficult to schedule. He suggested that members could take on topics to be responsible for in the final report. He asked Katelyn Parsons to ask Brad Mitchell to provide some rough draft language as to zoning before the September meeting.

Chair Lebeaux asked Michael Moore if he could provide some language regarding cottage foods and boards of health related matters.

Erin Mitchell was asked if she could provide some case study information for what she does on her cranberry farm.

Nathan L'Etoile will be asked to put information together regarding farm spirits – brewing, distilling, winery.

Karen Schwalbe was asked to provide details regarding promotion and marketing end of agritourism, both on the Buy Local side and also on agricultural fairs.

Keiko Orrall could provide information as to where Agritourism fits in the Travel and Tourism area.

Chair Lebeaux stated that MDAR could probably assist in providing information in the report regarding agricultural fairs as they are a key component of agritourism.

Regarding legislation, he asked the legislative teams to provide a summary of pending legislation and also, should the development of the report bring out a need for additional legislation, he asked if the legislative teams could assist with that.

6. Next Meeting

Chair Lebeaux noted September 27 at 1 pm for the next meeting date.

7. Adjournment

Sen Kennedy made a motion for a vote to adjourn. The motion was seconded by Karen Schwalbe. The vote to adjourn was unanimous. Meeting was adjourned at 1:45 pm.

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MEETING MINUTES
MASSACHUSETTS AGRITOURISM STUDY COMMISSION

Monday, September 27, 2021
Via Zoom

Board Members in Attendance: Chair John Lebeaux, Dominik Lay on behalf of Senator Edward Kennedy, Brad Mitchell, Michael Moore, Nathan L'Etoile, Keiko Orrall, Karen Schwalbe (arrived late), Derek Dunlea on behalf of Rep Fiola (arrived late)

Absent: Rep. Dykema, Sen. Rausch, Rep. Fiola, Erin Williams

Also in Attendance: Derek Silver on behalf of Sen. Gobi, Amy Parker, Katelyn Parsons

MDAR Staff in attendance: Christine Smith, Phu Mai, Tina Smith, Delia Delongchamp

1. **Call to Order:** The meeting started at 1:05 pm, with full remote participation.
2. **Approval of the minutes from the last meeting on August 23, 2021.**

Motion made by Michael Moore, seconded by Nathan L'Etoile. Motion passed with two abstentions (Brad Mitchell and Keiko Orrall).

3. **Industry Updates.**

Brad Mitchell reported that PYO was going very well with high attendance being reported at PYO farms.

Chair Lebeaux reported that the cranberry operations were experiencing some issues with flooding.

Keiko Orrall reported on Massachusetts Day at the Big E, with the Governor, Lt. Governor, Travel and Tourism in attendance, along with MDAR and DCR. She reported that the building now has a people counter so that there was a count of how many people were in the building, and that the vendors were spread out and it felt safe. Keiko Orrall complimented Phu Mai and Mary Jordan and the rest of the MDAR staff for doing a great job.

Chair Lebeaux reported that the Big E opened on Friday September 17 and that the West Springfield Board of Health required masks for indoor spaces. There was a lot of cooperation from staff and volunteers but there were some issues with attendees, especially

during the evening. Chair Lebeaux also reported that the staff at the Massachusetts Building do have masks on hand to provide for people who forgot to bring them. Big E was reporting that some attendance was better than 2019 and some worse than 2019 but overall, it is trending positively. Chair Lebeaux reported that the NY State Fair was off this year in terms of attendance and the Big E expected similar results as NY; however, it appears that it performed better than the NY State Fair. It appears some attendees may have chosen not to go inside buildings, but vendors are happy with sales from the fair. There were some staffing issues that impacted vendors.

Chair Lebeaux also reported that some other fairs in the state did cancel for this year.

Keiko Orrall reported that the Office of Travel and Tourism will be offering additional grants relating to agritourism, which will be available later in October. She also stated that as you enter the Mass building, there is a new kiosk built by MassCor.

4. Old Business

None.

5. New Business

a. Review/Update of Agritourism Study Commission Tour at Carlson Orchards

Chair Lebeaux reported that there was a tour and discussion at Carlson Orchards a few weeks ago by the Commission and some MDAR staff. He reported that Mr. Carlson expressed some issues he had with expanding of facility for agritourism activities and a major issue was that in the middle of the process, after permits were issued, there was a change in interpretation by the building inspector as to what was needed in terms of fire safety, which added financial and timing burdens. Mr. Carlson felt that this was a detriment to agritourism.

Brad Mitchell stated that Carlson's issue with the building code was similar to what other farms were seeing. He reported that there have been some budget cuts to BBRS leaving a gap in the policy side of things.

Keiko Orrall asked what the solution would be.

Brad Mitchell felt that they needed some legislative interest to perhaps get legislative relief. He suggested funding from BBRS would also help. Brad reported that other states were not requiring the same things as were being required here and goes beyond agritourism.

Chair Lebeaux stated that they were continuing to engage with the appropriate Commonwealth personnel on this issue and hopes there is some direct engagement with stakeholders.

b. Final Report Assignment Updates and Discussion

Chair Lebeaux reminded attendees that this was discussed at the last meeting and that the final report is nearing its due date. MDAR would hope to get

reports by November 1 which would give sufficient time to put the report together. MDAR Staff Phu Mai and Myron Inglis are going to start working on the introduction and organizing the report.

Chair Lebeaux thanked Brad Mitchell for the information regarding zoning provided by Farm Bureau and noted that they were still waiting on other information. Brad Mitchell stated that the information he sent was preliminary and needed some further discussion and had sent out to Rep. Fiola and Sen. Kennedy. Commissioner noted that he would try to set up meeting for Rep. Fiola, Sen. Kennedy, Phu Mai and either Deputy Commissioner Randle or himself.

Chair Lebeaux asked the legislative delegation to put together proposed and potential legislation, noting that the only proposed legislation filed is relating to the definition of agritourism.

Chair Lebeaux reminded that Michael Moore was responsible for cottage foods and Board of Health related matters. Michael Moore reported that he had asked members of staff to reach out to Deputy Commissioner Randle.

Chair asked Nathan L'Etoile if Deputy Commissioner Randle reached out to him regarding liquor licensing. Nathan reported that he had discussed with Deputy Commissioner Randle but that he would like some additional details.

Karen Schwalbe was assigned promotion and marketing information. Karen Schwalbe asked to have a conversation as well with Deputy Commissioner Randle about details.

Director Orrall was asked to report on the intersection of agritourism with Travel and Tourism.

Chair Lebeaux asked people to reach out if they needed any assistance.

c. Next Tour Location and Date

Phu Mai from MDAR suggested that the next tour location would be on a cranberry farm and would be reaching out to Erin Williams to see if she could offer her cranberry farm later in October. Karen Schwalbe offered to find an alternative if needed.

Nathan L'Etoile offered his farm in Western Mass if another location was needed later in the year.

6. Next Meeting

Chair Lebeaux noted October 18 at 1 pm for the next meeting date.

7. Adjournment

Karen Schwalbe made a motion for a vote to adjourn. The motion was seconded by Brad Mitchell. The vote to adjourn was unanimous. Meeting was adjourned at 1:48 pm.

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MEETING MINUTES
MASSACHUSETTS AGRITOURISM STUDY COMMISSION

Monday, October 18, 2021
Via Zoom

Board Members in Attendance: Chair John Lebeaux, Patti Kirwin on behalf of Senator Edward Kennedy, Brad Mitchell, Michael Moore, Nathan L'Etoile, Karen Schwalbe, Derek Dunlea on behalf of Rep. Fiola, Erin Williams, Keiko Orrall

Absent: Rep. Dykema, Sen. Rausch

Also in Attendance: Katelyn Parsons

MDAR Staff in attendance: Christine Smith, Ashley Randle, Julie Weiss, Mary Jordan, Phu Mai, Delia Delongchamp

1. **Call to Order:** The meeting started at 1:03 pm, with full remote participation.
2. **Approval of the minutes from the last meeting on September 27, 2021.**
Motion made by Derek Dunlea, seconded by Karen Schwalbe. Motion passed unanimously.
3. **Industry Updates.**
Brad Mitchell reported continuing issues with ambiguities in the building code and agritourism.
Chair Lebeaux reported that fair season had come to an end, with the last one being Westport the past weekend. Fair season was successful, noting that reserves were used up during 2020 when no fairs were held. He also reported that cranberry harvest was in full swing.
4. **Old Business**
None.
5. **New Business**
 - a. **Final Report Assignment Updates and Discussion**
Drafts are due by November 1.

Phu Mai reported that he had received some information from Rep. Fiola's office as well as from Brad Mitchell. He is also working on background for the report. Phu will receive and organize all the information.

Brad Mitchell reported that he had provided information regarding building codes but felt that there was some information that needed further discussion and final decision.

Nathan L'Etoile reported that he had some bullet points of information but also felt that it needs further group discussion.

Chair Lebeaux reminded members that they have a mandate to issue a report by year end.

Brad Mitchell added that they felt they needed guidance from DPH regarding food code and kitchens. Michael Moore reported that there should be further language ready by November 1. Erin Williams and Brad Mitchell both clarified that there is some confusion regarding catering. Michael Moore stated that residential kitchens guidance would cover catering as well.

b. Next Tour Location and Date

Phu Mai suggested tour on October 29 at 2 pm at the Brewery at Four Star Farms. Nathan L'Etoile would be the host and can highlight how to bring the public to a working farm.

The meeting will be a posted meeting open to the public and Nathan noted that the brewery opens at 4 pm after the meeting is over.

Chair Lebeaux noted that this would also serve as an opportunity to have further discussions that are needed. Ashley Randle said she would add that to the agenda and could send out the information needed for discussion in advance.

6. Next Meeting

Chair Lebeaux noted November 22 at 1 pm for the next meeting date.

Phu Mai suggested that additional subcommittee meetings might be helpful to work out any further details and offered to facilitate these if the members wanted.

Keiko Orrall asked how to incorporate public comment into the report. Ashley Randle stated that having a public hearing was discussed at a prior meeting and that if the drafts were in by November 1, a hearing could be held before Thanksgiving, leaving time for those comments to be incorporated for the final report due December 31.

7. Adjournment

Keiko Orrall made a motion for a vote to adjourn. The motion was seconded by Derek Dunlea. The vote to adjourn was unanimous. Meeting was adjourned at 1:23 pm.

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

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Commissioner

MEETING MINUTES
MASSACHUSETTS AGRITOURISM STUDY COMMISSION

Monday November 22, 2021
Via Zoom

Board Members in Attendance: Chair John Lebeaux, Sen. Edward Kennedy, Katelyn Parsons on behalf of Mass. Farm Bureau, Michael Moore, Nathan L'Etoile, Derek Dunlea on behalf of Rep. Fiola, Keiko Orrall, Shannon Emmett on behalf of Rep. Dykema

Absent: Sen. Rausch, Karen Schwalbe, Erin Williams

MDAR Staff in attendance: Christine Smith

1. Call to Order: The meeting started at 1:05 pm, with full remote participation.

2. Approval of the minutes from the last meeting on October 18, 2021.

Motion made by Derek Dunlea, seconded by Keiko Orrall. Motion passed unanimously.

3. Industry Updates.

Chair Lebeaux noted that the end of the calendar year Agritourism event would start this Friday with "Green Friday" which celebrates the start of the Christmas Tree season sales. The event will be at Seekonk Tree Farm in Great Barrington. This year's harvest is from trees planted during the 2008 recession (2009 planting) which caused farmers to plan less. There are also supply chain issues for those that are shipped in from elsewhere. Derek Dunlea asked if the local planting issues are just for that year or if it will carry forward. Chair Lebeaux said it is dependent on a number of factors, but it could take a couple of years to even out.

Keiko Orrall announced that there are Travel and Tourism marketing grants that are opening in December and will close in January.

4. Old Business

None.

5. New Business

a. Final Report Assignment Updates and Discussion

Chair Lebeaux noted that the report contents have been sent around based on what has been received to date. Farm Bureau, Travel and Tourism, MDAR Introduction and Legislative Report have been received. Nathan L'Etoile had sent in a report as well but it may not have made it to the staff person at MDAR for getting into the report.

Michael Moore stated that the DPH piece has been drafted and revised and that they are waiting on Commissioner's sign off.

As Karen and Erin are not in attendance, the Chair noted that MDAR will reach out to them for their reports.

Chair Lebeaux noted that Keiko Orrall had asked about public comment. If we had drafts by November 1, there would have been time to have public comment before Thanksgiving but that did not happen. He stated the Commission could discuss whether they want to go beyond the December 31 legislative mandate. The plan is to get a draft report for everyone to review before the next meeting.

b. Guest Speaker

There was a discussion about having speakers come speak to the Commission. Chair Lebeaux noted that it depends on whether the Commission sunsets at the submission of the report.

c. Next Tour Location and Date

Chair Lebeaux apologized to Nathan L'Etoile as they have not been able to get the attendance for people to visit Four Star Farm in the western part of the state as had been planned at the last meeting. He noted that they could try again but that finalizing the report was the first priority.

6. Next Meeting

Chair Lebeaux noted December 20 at 1 pm for the next meeting date.

Sen. Kennedy announced that Lowell has a 20-acre Christmas Tree Farm and that it could be the only Gateway City with a Christmas Tree Farm and that they would be selling Christmas trees starting the day after Thanksgiving.

7. Adjournment

Sen. Kennedy made a motion for a vote to adjourn. The motion was seconded by Derek Dunlea. The vote to adjourn was unanimous. Meeting was adjourned at 1:26 pm.

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MEETING MINUTES
MASSACHUSETTS AGRITOURISM STUDY COMMISSION

Monday December 20, 2021
Via Zoom

Board Members in Attendance: Chair John Lebeaux, Erin Williams, Sen. Edward Kennedy, Michael Moore, Derek Dunlea on behalf of Rep. Fiola, Shannon Emmett and David Melly on behalf of Rep. Dykema

Absent: Sen. Rausch, Karen Schwalbe, Brad Mitchell, Nathan L'Etoile, Keiko Orrall

MDAR Staff in attendance: Christine Smith, Phu Mai, Mary Jordan

1. Call to Order: The meeting started at 1:20 pm, with full remote participation.

2. Approval of the minutes from the last meeting on November 22, 2021.

Motion made by Sen. Kennedy, seconded by Derek Dunlea. Motion passed unanimously.

3. Industry Updates.

Chair Lebeaux reported that it was a good Christmas tree selling season in Massachusetts. Supply was not the same as it had been in other years due to global supply chain issues and planting for this year's Christmas trees took place in wake of 2008-2009 economic meltdown therefore fewer trees were likely planted. Prices also went up this year. Hours of operation were also less than prior years.

4. Old Business

None.

5. New Business

a. Final Report Assignment Updates and Discussion

Chair Lebeaux reminded members that the draft report is due on December 31, 2021. Some members' sections are still needed, and the Chair asked that any outstanding be sent in by the end of this week.

Phu Mai stated that in addition to the introduction which he wrote, he has the material from Rep. Fiola's office and as well as Keiko Orrall's report. Phu noted that Brad Mitchell had provided a draft but that will not be included in the final report. Phu also stated that he believed Nathan L'Etoile may have submitted information to Ashley Randle but that he did not have it to put into the report.

Derek Dunlea clarified that what he sent in was sent was on behalf of Rep. Fiola and Sen. Kennedy's office.

Rep. Dykema's office stated that they were not planning to submit anything on their end but that they looked forward to reading the full report of the committee. Rep. Dykema's office was not sure whether Sen. Rausch would be submitting anything or not.

Michael Moore reported that his portion was under review at DPH and that they hoped to meet the deadline requested. It is going to be posted as a Guideline on the DPH website.

Chair Lebeaux confirmed that Nathan L'Etoile told him that he had sent a report in to Ashley but could also provide the information directly to Phu Mai. Karen Schwalbe told the Chair that she would have something to send in regarding fairs by the end of the week.

The Chair noted that the ARPA bill provided funding for grants to county fairs for pandemic-related losses; this information will be included in the report as well.

Erin Williams asked for clarification on what was needed from her. She had originally been on the subcommittee regarding national tourism but was not sure if that information was needed for the report. Phu Mai stated he would follow up with her directly.

Phu Mai wanted to include language in the report regarding S. 2245 which was filed by Sen. Kennedy. Sen. Kennedy stated that he would have his staff reach out to Phu to provide a summary of the legislation and its status.

b. Next Steps

The Chair reiterated that the deadline is this coming Friday, so staff has the time to put together a draft for consideration of the Committee. Staff will receive comments and package the report up for final form. There should be a vote to accept the report as the final report. If it can be turned around quickly, they might be able to have a meeting for that purpose next week.

Sen Kennedy suggested we pick a date for the next meeting to coordinate schedules. Chair Lebeaux reported that they would send out a poll within the next 24 hours to pick a date.

The Chair asked whether there should be action items listed on the report. He also asked what the body wanted to do going forward; once the report is issued,

they would have met their legislative mandate, but they could continue to meet periodically. The Chair asked members to reach out with any thoughts on that matter.

6. Next Meeting

Chair Lebeaux stated that they hoped to have a meeting late next week (prior to Friday) for a vote on the report.

7. Adjournment

Sen Kennedy made a motion for a vote to adjourn. The motion was seconded by Derek Dunlea. The vote to adjourn was unanimous. Meeting was adjourned at 1:41 pm.