

HOUSE No. 4851

Text House document numbered 4843, being an amendment, recommended by the committee on Ways and Means, to the Senate Bill to mitigate arbovirus in the Commonwealth (Senate, No. 2757), as amended by the House. July 9, 2020.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

By striking out all after the enacting clause and inserting in place thereof the following:—

1 SECTION 1. Chapter 252 of the General Laws is hereby amended by inserting after
2 section 2 the following section:-

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

13 (b)(1) The board shall provide notice of the methods employed pursuant to subsection (a),
14 including the locations, the particular product to be sprayed, any health risks associated with the

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

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

33 (2) The executive office of energy and environmental affairs shall develop a process for
34 the board to permit municipalities to opt out of spraying conducted pursuant to subsection (a);
35 provided, however, that any such process shall require municipalities to have an alternative
36 mosquito management plan approved by the department of public health. The department of
37 public health shall also provide guidance to municipalities on the formation of alternative

38 mosquito management plans. Before approving an alternative mosquito management plan, the
39 department of public health may consider the plan's impact on regional mosquito control.

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

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

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

51 SECTION 2. Section 2A of chapter 252 of the General Laws is hereby repealed.

52 SECTION 3. (a) There shall be a task force to be known as the mosquito control for the
53 twenty-first century task force. The task force shall study the commonwealth's mosquito control
54 process established under chapter 252 of the General Laws and this act and recommend
55 comprehensive reforms of the commonwealth's mosquito control system. The task force shall
56 consist of the following members or their designee: the secretary of energy and environmental
57 affairs, who shall serve as chair; the commissioner of public health, who shall serve as vice-
58 chair; the commissioner of agricultural resources; the commissioner of conservation and
59 recreation; the commissioner of environmental protection; the director of fisheries and wildlife;

60 and 2 representatives to be appointed by the state reclamation and mosquito control board, 1 of
61 whom shall be a representative of a city or town that is part of a mosquito control district and 1
62 of whom shall be a representative of a city or town that is not part of a mosquito control district
63 but had significant mosquito activity in the past year.

64 The task force shall include 16 additional members appointed by the chair, 1 of whom
65 shall be an academic epidemiologist with expertise in arbovirus spread and control, 1 of whom
66 shall be an academic expert in pesticides and mosquito control, 1 of whom shall be an ecological
67 risk assessor with a background in ecotoxicology, 2 of whom shall be commissioners of a
68 regional mosquito control program in the commonwealth, 1 of whom shall be a superintendent,
69 director or manager of a regional mosquito control program in the commonwealth, 1 of whom
70 shall be an individual with a valid Massachusetts pesticide applicator license or certification, 1 of
71 whom shall be a representative of a statewide land conservation organization, 1 of whom shall be
72 a representative of a regional or statewide river protection organization, 1 of whom shall be a
73 representative of a statewide wildlife protection organization, 1 of whom shall be a
74 representative of an organization representing farms and agriculture, 1 of whom shall be a
75 representative of an organization representing organic farms and agriculture, 1 of whom shall be
76 a representative of an organization representing bee keepers or groups concerned about
77 pollinators, 1 of whom shall be a representative of a Massachusetts public water supplier and 1
78 of whom shall be a representative of the Massachusetts Water Works Association, Inc. and 1 of
79 whom shall be a microbiologist with expertise in zoonotic diseases whose transmission to
80 humans is facilitated by insects and ticks.

81 (b) The chairs of the joint committees on public health and the chairs of the joint
82 committee on environment, natural resources and agriculture, or their designees, shall be
83 observers to the task force and be invited to all meetings of the task force.

84 (c) All meetings of the task force shall be open to the public. The task force shall hold at
85 least 1 public listening session. The task force shall convene its first meeting no later than
86 August 14, 2020.

87 (d) The task force shall commission a study by an independent research or academic
88 organization with expertise in the environmental and health effects of pesticides, pest
89 management and mosquito control to complete a comprehensive evaluation of the
90 commonwealth's mosquito control process for 2020. The evaluation shall determine the
91 effectiveness of any spraying by examining the impact of the spraying on arbovirus diseases, the
92 cost-effectiveness of the spraying, the impact of spraying on the environment, agriculture and
93 wildlife and other factors.

94 (e) The task force shall review and make recommendations regarding: (i) facilitating the
95 use of integrated pest management, including surveillance, public education, enhanced habitat
96 for mosquito predators and storm water management; (ii) promoting public participation in
97 mosquito management decisions; (iii) providing for local options regarding the use of pesticides;
98 (iv) protecting organic agriculture from pesticide use; (v) assessing the need to update the
99 composition of the state reclamation and mosquito control board; (vi) developing procedures to
100 protect human and ecological health and minimize non-target impacts of mosquito pesticides,
101 including, but not limited to, effects on persons with respiratory or immune system illnesses,
102 drinking water supplies, pollinators and aquatic life; (vii) promoting the use of the safest or

103 minimum risk pesticides feasible and employing methods, including product disclosures or
104 implementation of testing protocols and procedures, to avoid the use of pesticides containing per-
105 and polyfluoroalkyl substances; (viii) providing for comprehensive annual evaluations of each
106 season's mosquito control process, including the effectiveness of the process in controlling
107 arbovirus and any effects of spraying on the environment, agriculture and wildlife; (ix)
108 identifying known ingredients in pesticide products used for mosquito control, analyzing the
109 ability, or lack of ability, to identify such ingredients, and making recommendations for
110 determining such ingredients; (x) identifying the challenges, including but not limited to
111 financial barriers, facing municipalities in joining a regional mosquito control project or district;
112 and (xi) any other priority as determined by the task force.

113 (f) The task force shall file its findings, recommendations and accompanying legislation,
114 if any, with the clerks of the house of representatives and the senate, the joint committee on
115 public health and the joint committee on environment, natural resources and agriculture not later
116 than October 31, 2021.

117 SECTION 4. Section 2 of this act shall take effect on December 31, 2022.