

Acts (2020)

Chapter 120

AN ACT TO MITIGATE ARBOVIRUS IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith make a certain change in law to allow the commonwealth to immediately respond to the significant public health risks associated with the transmission of arbovirus from mosquitoes to humans, such change being immediately necessary to carry out to accomplish important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

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

Section 2A. (a) Upon the written determination of the commissioner of public health that an elevated risk of arbovirus exists or may exist for the current or following year, the board, in consultation with the department of public health, may engage in preventive, management and eradication methods as it deems

necessary in any area of the commonwealth. The commissioner shall publish the determination on the department of public health's website and include a summary of the data supporting the determination. Concurrently, the commissioner shall provide notice of the determination to the joint committee on public health and the joint committee on environment, natural resources and agriculture. In carrying out its authority under this section, the board may act through any district or project duly organized under this chapter or another agency of the commonwealth or employ other professionals as the board deems necessary.

(b)(1) The board shall provide notice of the methods employed pursuant to subsection (a), including the locations, the particular product to be sprayed, any health risks associated with the product, and dates and times of aerial spraying or other wide-area emergency operations, not less than 48 hours before the application of such an operation to entities within the affected areas, including: (i) appropriate local and regional boards and commissions, including boards of health; (ii) property owners who have opted out of spraying based on exclusions pursuant to applicable regulations governing pesticide application; (iii) agricultural entities, including beekeepers, cranberry growers, certified organic farms and aquaculture facilities; and (iv) any other person who informs the board through a form made available on the board's website that they wish to be informed of aerial spraying in their region.

The board shall provide notice to all entities within affected areas as provided in the Massachusetts emergency operations response plan for mosquito-borne illnesses, as amended from time to time, including integrated pest management standard written notices to schools, day

care centers and school age child care programs. In addition, the board shall provide notice to such entities within the affected areas and to the general public by: (i) posting the notice to its website not less than 48 hours before the application; and (ii) informing local officials and the legislative representatives of the area being sprayed. Such notice shall also include the procedure for owners of property located within the spraying area, including those with property located outside of a mosquito control district, to opt out of aerial spraying or other wide area emergency operations and shall be consistent with applicable regulations governing pesticide application.

(2) The executive office of energy and environmental affairs shall develop a process for the board to permit municipalities to opt out of spraying conducted pursuant to subsection (a); provided, however, that any such process shall require municipalities to have an alternative mosquito management plan approved by the executive office. The executive office shall also provide guidance to municipalities on the formation of alternative mosquito management plans. Before approving an alternative mosquito management plan, the executive office may consider the plan's impact on regional mosquito control.

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

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

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

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

SECTION 3. (a) There shall be a task force to be known as the mosquito control for the twenty-first century task force. The task force shall study the commonwealth's mosquito control process established under chapter 252 of the General Laws and this act and recommend comprehensive reforms of the commonwealth's mosquito control system. The task force shall consist of the following members or their designee: the secretary of energy and environmental affairs, who shall serve as chair; the commissioner of public health, who shall serve as vice-chair; the commissioner of agricultural resources; the commissioner of conservation and recreation; the commissioner of environmental protection; the director of fisheries and wildlife; and 2 representatives to be appointed by the state reclamation and mosquito control board, 1 of whom shall be a representative of a city or town

that is part of a mosquito control district and 1 of whom shall be a representative of a city or town that is not part of a mosquito control district but had significant mosquito activity in the past year.

The task force shall include 15 additional members appointed by the chair, 1 of whom shall be an academic epidemiologist with expertise in arbovirus spread and control, 1 of whom shall be an academic expert in pesticides and mosquito control, 1 of whom shall be an ecological risk assessor with a background in ecotoxicology, 1 of whom shall be commissioner of a regional mosquito control program in the commonwealth, 1 of whom shall be a superintendent, director or manager of a regional mosquito control program in the commonwealth, 1 of whom shall be an individual with a valid Massachusetts pesticide applicator license or certification, 1 of whom shall be a representative of a statewide land conservation organization, 1 of whom shall be a representative of a regional or statewide river protection organization, 1 of whom shall be a representative of a statewide wildlife protection organization, 1 of whom shall be a representative of a statewide organization representing farms and agriculture, 1 of whom shall be a representative of a statewide organization representing organic farms and agriculture, 1 of whom shall be a representative of a statewide organization representing bee keepers or groups concerned about pollinators, 1 of whom shall be a representative of a Massachusetts public water supplier and 1 of whom shall be a representative of the Massachusetts Water Works Association, Inc. and 1 of whom shall be a microbiologist with expertise in zoonotic diseases whose transmission to humans is facilitated by insects and ticks.

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

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

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

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

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

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

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

Approved, July 20, 2020.