

SENATE No. 2757

The Commonwealth of Massachusetts

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

SENATE, June 11, 2020.

The committee on Senate Ways and Means to whom was referred the Senate Bill to mitigate arbovirus in the Commonwealth (printed as House, No. 4751), - reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2757).

For the committee,
Michael J. Rodrigues

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

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:

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 to the joint committee on public health and the joint committee on environment, natural
10 resources and agriculture of the determination. In carrying out its authority under this section, the

11 board may act through any district or project duly organized under this chapter or another agency
12 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. The board shall provide such notice to such
27 entities and to the general public by: (i) posting the notice to its website not less than 48 hours
28 before the application; and (ii) informing local officials and the legislative representatives of the
29 areas being sprayed. Such notice shall also include the procedure for owners of property located
30 within the spraying area, including those with property located outside of a mosquito control
31 district, to opt out of aerial spraying or other wide area emergency operations and shall be
32 consistent with applicable regulations governing pesticide application.

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

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

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

45 (e) If aerial spraying must be postponed due to weather conditions, notice provided
46 before application shall remain in effect for 48 hours following the improvement of such weather
47 conditions if postponement of aerial spraying would extend beyond the dates indicated in the
48 initial notice.

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

50 SECTION 3. (a) There shall be a mosquito control for the twenty-first century task force.
51 The task force shall study the commonwealth's mosquito control process established under
52 chapter 252 of the General Laws and this act and recommend comprehensive reforms of the
53 commonwealth's mosquito control system. The task force shall consist of the following members
54 or their designee: the secretary of energy and environmental affairs, who shall serve as chair; the

55 commissioner of public health, who shall serve as vice-chair; the commissioner of agricultural
56 resources; the commissioner of conservation and recreation; the commissioner of environmental
57 protection; the director of fisheries and wildlife; and 2 representatives to be appointed by the
58 state reclamation and mosquito control board, 1 of whom shall be a representative of a city or
59 town that is part of a mosquito control district and 1 of whom shall be a representative of a city
60 or town that is not part of a mosquito control district but had significant mosquito activity in the
61 past year.

62 The task force shall include additional members appointed by the chair who are: an
63 academic epidemiologist with expertise in arbovirus spread and control; an academic expert in
64 pesticides and mosquito control; and representatives of: a statewide land conservation
65 organization; a regional or statewide river protection organization; a statewide wildlife protection
66 organization; an organization representing farms and agriculture; an organization representing
67 organic farms and agriculture; and an organization representing bee keepers or groups concerned
68 about pollinators.

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

72 (c) All meetings of the task force shall be open to the public. The task force shall hold at
73 least 1 public listening session.

74 (d) The task force may commission a study by an independent research or academic
75 organization with expertise in the environmental and health effects of pesticides, pest
76 management and mosquito control to complete a comprehensive evaluation of the 2020 mosquito

77 control process. The evaluation shall determine the effectiveness of any spraying by examining
78 the impact of the spraying on arbovirus diseases, the cost-effectiveness of the spraying, the
79 impact of spraying on the environment, agriculture and wildlife and other factors.

80 (d) The task force shall review and make recommendations regarding: (i) facilitating the
81 use of integrated pest management, including surveillance, public education, enhanced habitat
82 for mosquito predators and storm water management; (ii) promoting public participation in
83 mosquito management decisions; (iii) providing for local options regarding the use of pesticides;
84 (iv) protecting organic agriculture from pesticide use; (v) assessing the need to update the
85 composition of the state reclamation and mosquito control board; (vi) developing procedures to
86 protect human and ecological health and minimize non-target impacts of mosquito pesticides,
87 including, but not limited to, effects on persons with respiratory or immune system illnesses,
88 drinking water supplies, pollinators and aquatic life; (vii) promoting the use of the safest or
89 minimum risk pesticides feasible and employing methods, including product disclosures or
90 implementation of testing protocols and procedures, to avoid the use of pesticides containing per-
91 and polyfluoroalkyl substances; (viii) providing for comprehensive annual evaluations of each
92 season's mosquito control process, including the effectiveness of the process in controlling
93 arbovirus and any effects of spraying on the environment, agriculture and wildlife; and (ix) any
94 other priority as determined by the task force.

95 (e) The task force shall file its findings, recommendations and accompanying legislation
96 with the house and senate clerks and the joint committees on public health and environment,
97 natural resources and agriculture not later than October 31, 2021.

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