

HOUSE No. 5696

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 10, 1991.

The committee on Natural Resources and Agriculture, to whom was referred the petition (accompanied by bill, House, No. 4210) of John George, Jr., and Robert Kraus for legislation to establish a uniform definition of normal maintenance or improvement of land in agricultural use, reports recommending that the accompanying bill (House, No. 5696) ought to pass.

For the committee,

JOHN GEORGE, JR.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-One.

AN ACT TO ESTABLISH A UNIFORM DEFINITION OF NORMAL MAINTENANCE OR IMPROVEMENT OF LAND IN AGRICULTURAL USE.

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.

2 *Whereas:* There are nearly 700,000 acres of land in
3 Massachusetts which is owned and managed by farmers. The
4 continued urbanization of this state is making this land more and
5 more important as open space, wildlife habitat, groundwater
6 recharge zones and as a buffer to the environmental impacts
7 associated with increases in population density, and;

8 *Whereas:* Farmers across the state are faced with a growing
9 morass of regulation and restriction which is increasing the cost
10 of farming and jeopardizing the future economic viability of our
11 farms. This, in turn, jeopardizes the open space which is supported
12 by the agricultural operation; and;

13 *Whereas:* Although the Wetlands Protection Act exempts
14 "work performed for normal maintenance or improvement of land
15 in agricultural use" many routine and long standing farm
16 operations are being challenged by local and state agencies,
17 creating confusion, frustration and in some cases, costly delays.
18 The intent of this Act is to establish a uniform definition to assist
19 the agricultural community in complying with the Wetlands
20 Protection Act and reducing the current uncertainty that exists;

1 SECTION 2. Section 40 of Chapter 131 of the General Laws,
2 is hereby amended by inserting, after the eighteenth (18)
3 paragraph, the following paragraph: —

4 Within one hundred and twenty days of the effective date of
5 this act, the department, upon the advice and consent of the
6 Commissioner of the Department of Food and Agriculture, shall
7 promulgate rules and regulations pursuant to this section which
8 shall establish definitions for the term "normal maintenance or

9 improvement of land in agricultural, or in aquacultural use”, for
10 each agricultural commodity or, where appropriate because of
11 similarities in cultural practices, groups of commodities in the
12 Commonwealth. The department shall create a farmland advisory
13 board to be appointed by the commissioer consisting of five
14 persons one a member of the cooperative extension service, one
15 a member of the USDA soil conservation service, one a member
16 of a municipal conservation commission who has demonstrated
17 expertise in agricultural issues, and two commercial farmers with
18 expertise in different agricultural commodities to assist the
19 department in the drafting of rules and regulations pursuant to
20 this paragraph.

1 SECTION 3. Chapter 131 of the General Laws is hereby
2 further amended by inserting after Section 40A, the following
3 section: —

4 Section 40B. The farmland advisory committee established in
5 paragraph nineteen of section 40 of this chapter shall meet
6 quarterly and at the call of the commissioner or upon written
7 request of any two members. The committee is charged with
8 advising the commissioner relative to the definitions of “normal
9 maintenance or improvement of land in agricultural or
10 aquacultural use” and other issues relating to agriculture including
11 but not limited to, consistency in federal and state statutes, rules,
12 and regulations pursuant to agricultural activities governed by
13 Chapter 131, Section 40, of the General Laws and issues affecting
14 agriculture pursuant to Chapter 21G of the General Laws. The
15 farmland advisory committee, in conjunction with the depart-
16 ment, shall make an annual report to the committee on natural
17 resources and agriculture as to their activities under this section.

1 SECTION 4. The department of environmental quality
2 engineering shall submit any rules and regulations promulgated
3 under the provisions of this act to the committee on natural
4 resources and agriculture for its review within thirty days prior
5 to the effective date of said regulations.

