

HB 1412 - AS INTRODUCED

- Page 2 -

1 2 New Paragraph; Tax Deduction; Business Profits Tax. Amend RSA 77-A:4 by inserting after
2 paragraph XIX the following new paragraph:

3 XX. A deduction of such amount of gross business profits as any expense linked to
4 transitioning from standard agricultural operations to USDA Organic Certified operations, as well
5 as expenses linked to maintaining USDA Organic Certification.

6 3 New Paragraph; Business Profits Tax; Tax Credit. Amend RSA 77-A:5 by inserting after
7 paragraph XVI the following new paragraph:

8 XVII. Any person paying the USDA Certification or Recertification fee to achieve or
9 maintain a USDA Organic Certification shall be allowed a credit in the amount of such fee.

10 4 Effective Date. This act shall take effect 60 days after its passage.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to gardening, homesteading, and organic food production.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; Vegetable Gardens; Agricultural Uses. Amend RSA 432 by inserting after
2 section 35 the following new subdivision:

3 Vegetable Gardens; Agricultural Uses

4 432:36 Short Title. This act may be cited as the "Right to Garden Act."

5 432:37 Purpose. The purpose of this subdivision is to encourage and protect the sustainable
6 cultivation of fresh food at all levels of production, including on residential and agricultural property,
7 for personal consumption or non-commercial sharing.

8 432:38 Vegetable Gardens; Agricultural Uses.

9 I. In this subdivision, "vegetable garden" means any plot of ground or elevated soil bed on
10 residential or agricultural property where vegetables, herbs, fruits, flowers, pollinator plants, leafy
11 greens, or other edible plants are cultivated.

12 II. Notwithstanding any other law to the contrary, any person may
13 cultivate vegetable gardens on their own property, or on the private property of another with the
14 permission of the owner.

15 III. An owner of property may use his or her property in a manner consistent with its
16 agricultural classification at the time of that owner's purchase notwithstanding any subsequently
17 enacted zoning ordinance or zoning classification restricting or altering such use.

18 IV. Nothing in this subdivision shall be construed:

19 (a) To preclude the adoption of any zoning ordinance or zoning classification restricting
20 or altering any agricultural use, provided that such ordinance or classification does not apply to any
21 affected properties until such time as the restricted or altered agricultural use is abandoned or sold.

22 (b) To exempt any commercial agricultural operation from existing local, state, or federal
23 law.

24 (c) To preclude the adoption of a regulation or local ordinance of general nature that
25 does not specifically regulate vegetable gardens, including, but not limited to, regulations and
26 ordinances relating to height, setback, water use, fertilizer use, or control of invasive species,
27 provided that any such regulation or ordinance does not have the effect of precluding vegetable
28 gardens or the cultivation of fresh foods; or

29 (d) To restrict the powers of any homeowners' association or any other deed-restricted
30 community.

HB 1412 - AS INTRODUCED

2022 SESSION

22-2746

08/10

HOUSE BILL **1412**

AN ACT relative to gardening, homesteading, and organic food production.

SPONSORS: Rep. Foster, Hills. 5; Rep. Berezny, Graf. 9; Rep. Avellani, Carr. 5; Rep. Littlefield, Belk. 3; Rep. Yakubovich, Merr. 24; Rep. Melvin, Rock. 15; Rep. Deshaies, Carr. 6; Rep. Hill, Merr. 3; Rep. Blasek, Hills. 21; Rep. Johnson, Belk. 3

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill provides that any person may cultivate vegetable gardens on their own property, or on the private property of another with the permission of the owner.

This bill also adds a deduction from business profits and a credit against the business profits tax paid in the amount of the USDA Organic Certification fee.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

Heather Goley

From: Howard Pearl
Sent: Monday, February 7, 2022 7:11 AM
To: Heather Goley
Cc: Barbara Comtois
Subject: HB 1412 report

Heather
Below is the report for HB1412
Howard

HB 1412

The committee received testimony that existing statutes do a lot of what was intended and the bill in its entirety would actually weaken our existing farming statutes. Although this is a well-intentioned bill the committee unanimously voted ITL at the request of the sponsor.

Rep. Comtois
ITL
Vote: 17-0

Howard C Pearl

State Representative Merrimack 26

Owner Pearl & Sons Farm LLC

Loudon Town Moderator

Environment & Agriculture Committee Chair

Member NH Solid Waste Working Group

Member NH Weights & Measures Advisory Board

NH Farm Bureau Treasurer

409 Loudon Ridge Rd

Loudon N.H. 03307

603-231-1482 cell

CONSENT CALENDAR

Environment and Agriculture

HB 1412, relative to gardening, homesteading, and organic food production. **INEXPEDIENT TO LEGISLATE.**

Rep. Barbara Comtois for Environment and Agriculture. The committee received testimony that existing statutes already do much of what was intended by this bill. The bill in its entirety would actually weaken our existing farming statutes. Although this is a well-intentioned bill, the committee unanimously voted inexpedient to legislate at the request of the sponsor. **Vote 17-0.**

Original: House Clerk

Cc: Committee Bill File

COMMITTEE REPORT

Committee:	Environment and Agriculture
Bill Number:	HB 1412
Title:	relative to gardening, homesteading, and organic food production.
Date:	February 8, 2022
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The committee received testimony that existing statutes already do much of what was intended by this bill. The bill in its entirety would actually weaken our existing farming statutes. Although this is a well-intentioned bill, the committee unanimously voted inexpedient to legislate at the request of the sponsor.

Vote 17-0.

Rep. Barbara Comtois
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

February 8, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Environment and Agriculture to
which was referred HB 1412,**

**AN ACT relative to gardening, homesteading, and
organic food production. Having considered the same,
report the same with the following resolution:**

RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Barbara Comtois

FOR THE COMMITTEE

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON HB 1412

BILL TITLE:

AN ACT relative to gardening, homesteading, and organic food production.

DATE: January 25, 2022

ROOM: 301

Time Public Hearing Called to Order: _11:00a.m.

Time Adjourned: _____

(please circle if present)

Committee Members: Reps. Pearl, Aron, Comtois, Verville, Davis, Stapleton, Homola, Kennedy, Mason, G. Sanborn, Bixby, Sofikitis, Andrew Bouldin, Dutzy, M. Murray, Von Plinsky, Caplan, Hyland and Perez

Bill Sponsors: Rep. Foster, Hills. 5; Rep. Berezny, Graf. 9; Rep. Avellani, Carr. 5; Rep. Littlefield, Belk. 3; Rep. Yakubovich, Merr. 24; Rep. Melvin, Rock. 15; Rep. Deshaies, Carr. 6; Rep. Hill, Merr. 3; Rep. Blasek, Hills. 21; Rep. Johnson, Belk. 3

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Foster – prime sponsor – Hills 5 – introducing bill – initially this bill came about due to Voters in District, and saw that in other states that their rights to garden have been overridden by zoning ordinances – grew up in NY on a 5 acre farm – produced bill and tried to make sure of grandfathering laws – Organic farming, closing down state certification – barriers to smaller operating units – cost of certification that was not paid for by Federal Government, would eliminate

Rep Pearl – the well-intentioned bill – just curious why you would give tax deductions to organic vs any other farm A. it is because it was the issue that came before me – giving them back money they sent into state – I have no problem doing for any of them

Rep Bixby – confused about tax credit – it would be against BPT and there is a fairly high rate before they would be paying in, what size operation are you talking about – A. spoke with OLS, and this is what they did – reduce barriers

Rep Comtois – organic gets to charge a higher premium for food – A. don't see a problem with it and would hope that all farmers would go organic

Rep Dutzy – what is the cost of getting organically certified A. Cost is \$1,000 and doubled by not having the State do that

Rep Horrigan – process of legalizing cannabis A. nothing in the subdivision will be construed to go against existing law

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON HB 1412

BILL TITLE: relative to gardening, homesteading, and organic food production.

DATE:

ROOM:

Time Public Hearing Called to Order: 11:00 AM

Time Adjourned: 11:25 AM

(please circle if present)

Committee Members: Reps. Pearl, Aron, Comtois, ~~Verville~~, Davis, Stapleton, Homola, Kennedy, Mason, G. Sanborn, Bixby, ~~Sofikitis~~, Andrew Bouldin, Dutzy, M. Murray, Von Plinsky, ~~Caplan~~, ~~Hyland~~ and Perez *Harrison*

Bill Sponsors:

Rep. Foster
Rep. Littlefield
Rep. Deshaies
Rep. Johnson

Rep. Berezhny
Rep. Yakubovich
Rep. Hill

Rep. Avellani
Rep. Melvin
Rep. Blasek

TESTIMONY

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Blue Sheet *1 of Favor*

Online *12 to 1*

Rob Johnson – NH Farm Bureau – Policy Director – support the intent of the sponsor and the Right to Garden – RSA 674:32-C goes above and beyond the intent of the bill – the way the bill is written would weaken our current statues – Tax Exemptions – Federal USDA regulations and does provide cost/share funds, someone can call themselves Organic if they sell under \$1,500 – NH has a Right to Farm Law RSA 432:32-35 is one of the strongest in the nation

Rep. Aaron – Zoning laws from other States to prohibit farming, I want to confirm that we already have those protections in place under RSA674:32-C and RSA 432:32-35 A. the language proposed in this bill weakens our statues

Resptectfully submitted,

Rep.Barbara Comtois
Clerk

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON HB 1412

BILL TITLE: relative to gardening, homesteading, and organic food production.

DATE: January 25, 2022

LOB ROOM: 301 - 303

Time Public Hearing Called to Order: 11:00 a.m.

Time Adjourned: 11:25 a.m.

Committee Members: Reps. Pearl, Aron, Comtois, Davis, Stapleton, Homola, Kennedy, Mason, G. Sanborn, Bixby, Dutzy, M. Murray, Von Plinsky and Perez

Bill Sponsors:

Rep. Foster

Rep. Berezhny

Rep. Avellani

Rep. Littlefield

Rep. Yakubovich

Rep. Melvin

Rep. Deshaies

Rep. Hill

Rep. Blasek

Rep. Johnson

TESTIMONY

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Rep. Dutzy – what is the cost of getting organically certified A. Cost is \$1,000 and doubled by not having the State do that

Rep. Horrigan – process of legalizing cannabis A. nothing in the subdivision will be construed to go against existing law

Rep. Murray – intersection of gardening, homesteading, and organic food production – is it necessary for the gardening and homesteading – A. organic is opening up more avenues for farms to sell their products

Rep. Dutzy – it is really aimed at smaller gardeners and not a large-scale farm that become organically certified and they are finding out that the cost is too high for them A. Yes

The New Hampshire
House of Representatives

HOUSE OF REPRESENTATIVES - ONLINE TESTIMONY SUBMISSIONS

House Environment and Agriculture ▼

HB1412 ▼

Support: 12 | Oppose: 1 | Neutral: 0

<u>Name</u>	<u>Town</u>	<u>State</u>	<u>Position</u>	<u>Attachment</u>	<u>Typed</u>
Alvin See	Loudon	NH	Support		
Anthony Ferrantello	Keene	NH	Support		
Catherine Peternel	Wolfeboro	NH	Support		
Curtis Howland	Manchester	NH	Support		
Diane Richardson	Springfield	NH	Support		
Erica Layon	Derry	NH	Support		
erick Sawtelle	Lee	NH	Oppose		
kevin chapman	marlborough	NH	Support		
Mary Anderson	Plaistow	NH	Support		
Sarah Reed	Concord	NH	Support		
William Domenico	Manchester	NH	Support		
William Reed	Concord	NH	Support		
Zephan Wood	Pembroke	NH	Support		

House Remote Testify

Environment and Agriculture Committee Testify List for Bill HB1412 on 2022-01-25

Support: 12 Oppose: 1 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Richardson, Diane	Springfield, NH Frontierrots@msn.com	A Member of the Public	Myself	Support	No	No	1/5/2022 8:48 PM
Layon, Erica	Derry, NH erica.layon@leg.state.nh.us	An Elected Official	Rockingham 6	Support	No	No	1/23/2022 11:35 AM
Peternel, Catherine	Wolfeboro, NH katypeternel@pm.me	A Member of the Public	Myself	Support	No	No	1/23/2022 6:01 PM
Sawtelle, erick	Lee, NH esawtelles@aol.com	A Member of the Public	Myself	Oppose	No	No	1/23/2022 6:51 PM
Howland, Curtis	Manchester, NH howland@priss.com	A Member of the Public	Myself	Support	No	No	1/23/2022 9:28 PM
Anderson, Mary	Plaistow, NH elfskid@yahoo.com	A Member of the Public	Myself	Support	No	No	1/24/2022 8:17 AM
Domenico, William	Manchester, NH bill@resunltd4u.com	A Member of the Public	Myself	Support	No	No	1/24/2022 9:49 AM
Reed, Sarah	Concord, NH stubbs.saraha@gmail.com	A Member of the Public	Myself	Support	No	No	1/24/2022 12:32 PM
Reed, William	Concord, NH willie.b.reed@gmail.com	A Member of the Public	Myself	Support	No	No	1/24/2022 12:32 PM
chapman, kevin	marlborough, NH denoet103@yahoo.com	A Member of the Public	Myself	Support	No	No	1/24/2022 5:16 PM
Wood, Zephan	Pembroke, NH zephanw@gmail.com	A Member of the Public	Myself	Support	No	No	1/24/2022 10:33 PM
See, Alvin	Loudon, NH absee@4liberty.net	A Member of the Public	Myself	Support	No	No	1/24/2022 10:50 PM
Ferrantello, Anthony	Keene, NH ajfnino@gmail.com	A Member of the Public	Myself	Support	No	No	1/25/2022 9:39 AM

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

EXECUTIVE SESSION on HB 1412

BILL TITLE: relative to gardening, homesteading, and organic food production.

DATE: February 1, 2022

LOB ROOM: 301 - 303

MOTIONS: **INEXPEDIENT TO LEGISLATE**

Moved by Rep. Comtois

Seconded by Rep. Dutzy

Vote: 17-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Barbara Comtois, Clerk



2022 SESSION

Environment and Agriculture

Bill #: HB1412 Motion: ITL AM #: _____ Exec Session Date: 2-1-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Pearl, Howard C. Chairman	✓		
Aron, Judy F. Vice Chairman	✓		
Comtois, Barbara Clerk	✓		
Verville, Kevin G. Johnson, Dawn	✓		
Davis, Arnold G. Lang, Tim	✓		
Stapleton, Walter A. Moffett, Mike	✓		
Homola, Susan	✓		
Kennedy, Margaret Anne	✓		
Mason, James L.	✓		
Sanborn, Gail E.	✓		
Bixby, Peter W.	✓		
Sofikitis, Catherine M.			
Bouldin, Andrew J.	✓		
Dutzy, Sherry	✓		
Murray, Megan A.	✓		
Von Plinsky, Sparky	✓		
Caplan, Tony Almy, Susan	✓		
Perez, Maria	✓		
TOTAL VOTE:	17	0	