

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. Berezhny, 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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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

- 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.