

SENATE No. 1682

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas M. McGee

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to Congo conflict minerals.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|--------------------------------|--|
| <i>Thomas M. McGee</i> | <i>Third Essex</i> |
| <i>Ruth B. Balser</i> | <i>12th Middlesex</i> |
| <i>Jay D. Livingstone</i> | <i>8th Suffolk</i> |
| <i>Aaron Vega</i> | <i>5th Hampden</i> |
| <i>Linda Dorcena Forry</i> | <i>First Suffolk</i> |
| <i>Bradley H. Jones, Jr.</i> | <i>20th Middlesex</i> |
| <i>Barbara A. L'Italien</i> | <i>Second Essex and Middlesex</i> |
| <i>Benjamin Swan</i> | <i>11th Hampden</i> |
| <i>Timothy R. Madden</i> | <i>Barnstable, Dukes and Nantucket</i> |
| <i>Paul W. Mark</i> | <i>2nd Berkshire</i> |
| <i>Paul McMurtry</i> | <i>11th Norfolk</i> |
| <i>Marjorie C. Decker</i> | <i>25th Middlesex</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> |
| <i>William N. Brownsberger</i> | <i>Second Suffolk and Middlesex</i> |
| <i>David M. Rogers</i> | <i>24th Middlesex</i> |
| <i>Frank A. Moran</i> | <i>17th Essex</i> |
| <i>William C. Galvin</i> | <i>6th Norfolk</i> |

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| <i>Paul R. Heroux</i> | <i>2nd Bristol</i> | |
| <i>Denise Provost</i> | <i>27th Middlesex</i> | |
| <i>Daniel J. Hunt</i> | <i>13th Suffolk</i> | |
| <i>Elizabeth A. Poirier</i> | <i>14th Bristol</i> | |
| <i>Kathleen O'Connor Ives</i> | <i>First Essex</i> | |
| <i>Tom Sannicandro</i> | <i>7th Middlesex</i> | |
| <i>Kenneth J. Donnelly</i> | <i>Fourth Middlesex</i> | |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | |
| <i>Cory Atkins</i> | <i>14th Middlesex</i> | |
| <i>Mary S. Keefe</i> | <i>15th Worcester</i> | |
| <i>Bruce E. Tarr</i> | <i>First Essex and Middlesex</i> | |
| <i>Lori A. Ehrlich</i> | <i>8th Essex</i> | |
| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i> | |
| <i>Byron Rushing</i> | <i>9th Suffolk</i> | |
| <i>Jonathan Hecht</i> | <i>29th Middlesex</i> | |
| <i>Sonia Chang-Diaz</i> | <i>Second Suffolk</i> | |
| <i>Gloria L. Fox</i> | <i>7th Suffolk</i> | |
| <i>Chris Walsh</i> | <i>6th Middlesex</i> | |
| <i>Russell E. Holmes</i> | <i>6th Suffolk</i> | |
| <i>Anthony W. Petrucci</i> | <i>First Suffolk and Middlesex</i> | |
| <i>Marcos A. Devers</i> | <i>16th Essex</i> | |
| <i>Frank I. Smizik</i> | <i>15th Norfolk</i> | |
| <i>Elizabeth A. Malia</i> | <i>11th Suffolk</i> | |
| <i>Robert L. Hedlund</i> | <i>Plymouth and Norfolk</i> | |
| <i>Paul Brodeur</i> | <i>32nd Middlesex</i> | |
| <i>Jose F. Tosado</i> | <i>9th Hampden</i> | |
| <i>Bradford R. Hill</i> | <i>4th Essex</i> | |
| <i>Danielle W. Gregoire</i> | <i>4th Middlesex</i> | |
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> | |
| <i>Harold P. Naughton, Jr.</i> | <i>12th Worcester</i> | |
| <i>Anne M. Gobi</i> | <i>Worcester, Hampden, Hampshire and Middlesex</i> | <i>6/8/2015</i> |
| <i>Michael J. Barrett</i> | <i>Third Middlesex</i> | <i>6/18/2015</i> |

SENATE No. 1682

By Mr. McGee, a petition (accompanied by bill, Senate, No. 1682) of Thomas M. McGee, Ruth B. Balsler, Jay D. Livingstone, Aaron Vega and other members of the General Court for legislation relative to Congo conflict minerals. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to Congo conflict minerals.

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 7 of the General Laws is hereby amended by inserting after
2 Section 22N, the following new section:

3 The Legislature finds and declares all of the following:

4 (a) The Democratic Republic of Congo was devastated by a civil war carried out in 1996
5 and 1997 and a war that began in 1998 and ended in 2003, which resulted in widespread human
6 rights violations and the intervention of multiple armed forces or armed non-state actors from
7 other countries in the region.

8 (b) Despite the signing of a peace agreement and subsequent withdrawal of foreign forces
9 in 2003, the eastern region of the Democratic Republic of Congo has continued to suffer from
10 high levels of poverty, insecurity, and a culture of impunity, in which illegal armed groups and
11 military forces continue to commit widespread human rights abuses.

12 (c) According to a study by the International Rescue Committee released in January
13 2008, conflict and the related humanitarian crisis in the Democratic Republic of Congo have
14 resulted in the deaths of an estimated 5,400,000 people since 1998 and continue to cause as many
15 as 45,000 deaths each month.

16 (d) Sexual violence and rape remain pervasive tools of warfare used by all parties in
17 eastern region of the Democratic Republic of Congo to terrorize and humiliate communities,
18 resulting in community breakdown which causes a decrease in the ability of affected
19 communities to resist control by illegal armed forces and a loss of community access to minerals.
20 Sexual violence and rape affect hundreds of thousands of women and girls, frequently resulting
21 in traumatic fistula, other severe genital injuries, and long-term psychological trauma.

22 (e) A report released by the Government Accountability Office in December 2007
23 describes how the mismanagement and illicit trade of extractive resources from the Democratic
24 Republic of Congo supports conflict between militias and armed domestic factions in
25 neighboring countries.

26 (f) In October 2002, the United Nations Group of Experts on the Democratic Republic of
27 Congo called on member states of the United Nations to adopt measures, consistent with the
28 guidelines established for multinational enterprises by the Organization for Economic Co-
29 operation and Development, to ensure that enterprises in their jurisdiction do not abuse principles
30 of conduct that they have adopted as a matter of law.

31 (g) In February 2008, the United Nations Group of Experts on the Democratic Republic
32 of Congo stated, “individuals and entities buying mineral output from areas of the eastern part of
33 the Democratic Republic of Congo with a strong rebel presence are violating the sanctions

34 regime when they do not exercise due diligence to ensure their mineral purchases do not provide
35 assistance to illegal armed groups” and defined due diligence as including the following:
36 determining the precise identity of the deposits from which the minerals they intend to purchase
37 have been mined; establishing whether or not these deposits are controlled or taxed by illegal
38 armed groups; and refusing to buy minerals known to originate, or suspected to originate, from
39 deposits controlled or taxed by illegal armed groups.

40 (h) In its final report, released on December 12, 2008, the United Nations Group of
41 Experts on the Democratic Republic of the Congo found that official exports of columbite-
42 tantalite, cassiterite, wolframite, and gold are grossly undervalued and that various illegal armed
43 groups in the eastern region of the Democratic Republic of Congo continue to profit greatly from
44 these natural resources by coercively exercising control over mining sites from where they are
45 extracted and locations along which they are transported for export.

46 (i) United Nations Security Council Resolution 1857, unanimously adopted on December
47 22, 2008, broadens existing sanctions relating to the Democratic Republic of Congo to include
48 “individuals or entities supporting the illegal armed groups ... through illicit trade of natural
49 resources”; and encourages member countries to ensure that companies handling minerals from
50 the Democratic Republic of Congo exercise due diligence on their suppliers.

51 (j) Continued weak governance in the Democratic Republic of Congo has allowed the
52 illicit trade in the minerals columbite-tantalite, cassiterite, wolframite, and gold to flourish,
53 which empowers illegal armed groups, undermines local development, and results in a loss or
54 misuse of tax revenue for the Government of the Democratic Republic of Congo. The
55 development of stronger governance and economic institutions that support legitimate cross-

56 border trade in such minerals would help prevent the exploitation of such minerals by illegal
57 armed groups and enable the hundreds of thousands of people who depend on such minerals for
58 their livelihoods to benefit from such minerals.

59 (k) Metals derived from columbite-tantalite, cassiterite, wolframite, and gold from the
60 Democratic Republic of Congo are used in diverse technological products sold worldwide,
61 including mobile telephones, laptop computers, and digital video recorders.

62 (l) In February 2009, the Electronic Industry Citizenship Coalition and the Global e-
63 Sustainability Initiative released a statement asserting that use by the information
64 communications technology industry of mined commodities that support conflict in such
65 countries as the Democratic Republic of Congo is unacceptable and electronics companies can
66 and should uphold responsible practices in their operations and work with suppliers to meet
67 social and environmental standards with respect to the raw materials used in the manufacture of
68 their products.

69 (m) Notwithstanding the extensiveness of the supply chains of technological products and
70 the extensiveness of the processing stages for the metals derived from columbite-tantalite,
71 cassiterite, wolframite, and gold used in such products, companies that create and sell products
72 that include such metals have the ability to influence the situation in the Democratic Republic of
73 Congo by doing all of the following: exercising due diligence in ensuring that their suppliers
74 provide raw materials in a manner that does not directly finance armed conflict, result in labor or
75 human rights violations, or damage the environment; verifying the country from which the
76 minerals used to derive such metals originate, the identity of the exporter of the minerals, and
77 that all appropriate tax payments are made; and committing to support mineral exporters from

78 the Democratic Republic of Congo that fully disclose their export payments and certify that their
79 minerals do not directly finance armed conflict, result in labor or human rights violations, or
80 damage the environment.

81 (n) It is the sense of the Legislature that the exploitation and trade of conflict minerals
82 originating in the Democratic Republic of Congo is helping to finance conflict characterized by
83 extreme levels of violence in the eastern Democratic Republic of Congo, particularly sexual- and
84 gender-based violence, and contributing to an emergency humanitarian situation.

85 (o) The Dodd-Frank Wall Street Reform and Consumer Protection Act was signed into
86 law by President Barack Obama on July 21, 2010. This law requires those who file with the
87 Securities Exchange Commission and use minerals originating in the Democratic Republic of
88 Congo in manufacturing to disclose measures taken to exercise due diligence on the source and
89 chain of custody of the materials and the products manufactured.

90 SECTION 2.

91 (a) Consistent with the purposes of Section 1502 of the Dodd-Frank Wall Street Reform
92 and Consumer Protection Act, a scrutinized company is ineligible to, and shall not, bid on or
93 submit a proposal for a contract with a state agency for goods or services. (b) For purposes of
94 this section, a "scrutinized company" is a person that is required to disclose information relating
95 to conflict minerals originating in the Democratic Republic of the Congo, or its adjoining
96 countries, pursuant to Section 13(p) of the Securities and Exchange Act of 1934 where conflict
97 minerals are necessary to the functionality or production of a product manufactured by the
98 person, where the person has filed an "unreliable determination," as defined by Section 13(p) of
99 the Securities and Exchange Act of 1934, reported false information in their report whose

100 requirements are described in Section 13(p) of the Securities and Exchange Act of 1934, or failed
101 to file a report as required by Section 13(p) of the Securities and Exchange Act of 1934 and
102 which the Securities and Exchange Commission has, upon the completion of the commission's
103 processes, determined that a person has made a report that does not satisfy the requirements of
104 due diligence described in Section 13(p) of the Securities and Exchange Act of 1934.

105 SECTION 3. Section 2 of this bill shall become inoperative upon the disclosure
106 requirements termination date specified pursuant to Section 1502(b)(4) of Public Law 111-203.