

HOUSE No. 2407

The Commonwealth of Massachusetts

PRESENTED BY:

Todd M. Smola

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 well water disclosures.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Todd M. Smola</i>	<i>1st Hampden</i>	<i>2/1/2021</i>

HOUSE No. 2407

By Mr. Smola of Warren, a petition (accompanied by bill, House, No. 2407) of Todd M. Smola relative to disclosures of certain hazards in well water. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3842 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to well water disclosures.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 111 of the General Laws hereby amended by inserting after section 197E the
2 following section:—

3 Section 197F. Prospective purchasers of residential premises shall be notified about the
4 hazards of the presence of 1,4 Dioxane in well water serving the premises and the requirements
5 for their abatement or containment as follows:—

6 (a) The commissioner shall prepare a standard notification form and such other materials
7 as may be necessary to inform prospective purchasers about the possible presence of 1,4 Dioxane
8 in the well water of such premises. Such forms and materials shall be revised from time to time
9 as appropriate.

10 (b) All persons selling premises shall, prior to the signing of a purchase and sale
11 agreement, provide a copy of the form and other materials prepared pursuant to subsection (a) to
12 the prospective purchaser.

13 All persons leasing premises with an option to purchase such premises shall, prior to the
14 signing of the lease with an option to purchase, provide a copy of the form and other materials
15 prepared pursuant to subsection (a) to the lessee-prospective purchaser. In addition to and at the
16 time of providing said notification, the lessor-prospective seller and any real estate agent
17 involved in the sale shall disclose to the prospective purchaser any information known to the
18 seller or real estate agent about the presence 1,4 Dioxane in a well water serving the premises.

19 (c) The lessee-prospective purchaser shall also be informed by the lessor-prospective
20 seller and any such real estate agent about the availability of testing for the presence of 1,4
21 Dioxane. If, after receiving said notice, the lessee-prospective purchaser chooses to have an
22 analysis of drinking water done, the lessor-prospective seller shall afford the lessee-prospective
23 purchaser a period of 10 days or such longer time as the parties may agree to have such analysis
24 performed, through a presence of 1,4 Dioxane contingency provision in the purchase and sale
25 agreement, or otherwise.

26 (d) If any real estate agent involved in the sale has provided the lessee-prospective
27 purchaser with the required information and materials, the real estate agent shall verbally inform
28 the lessee-prospective purchaser of the possible presence of dangerous levels of 1,4 Dioxane. At
29 that time or at any time prior to signing of the purchase and sale agreement, any such real estate
30 agent shall obtain the lessee-prospective purchaser's certification that he or she has been notified.

31 (e) Nothing in this section or this chapter shall be construed to require the commissioner,
32 local boards of health or code enforcement agencies to conduct testing for the presence of 1,4
33 Dioxane, the sole purpose of which is to inform sellers or prospective purchasers of premises
34 about the presence of dangerous levels of 1,4 Dioxan in the well water of said premises.

35 (f) As set forth in this section, the commissioner shall, by July 1, 2020, prepare a standard
36 notification brochure and such other materials as may be necessary to inform such tenants and
37 property owners about the hazards associated with dangerous levels of 1,4 Dioxane in drinking
38 water.

39 (g) Any owner who fails to comply with the provisions of this section shall be liable for
40 all damages caused by the failure to comply and, in addition, shall be subject to assessment of a
41 penalty not to exceed \$1,000. A violation of this section by a person engaged in trade or
42 commerce shall be an unfair and deceptive act or practice as defined in section 2 of chapter 93A.