

# HOUSE . . . . . No. 4288

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, January 29, 2024.

The committee on Agriculture to whom were referred the petition (accompanied by bill, Senate, No. 39) of Joanne M. Comerford, Susannah M. Whipps, Michael O. Moore, Anne M. Gobi and other members of the General Court for legislation to protect our soil and farms from PFAS contamination, and the petition (accompanied by bill, House, No. 101) of Paul A. Schmid, III and others for legislation to establish the agricultural PFAS relief fund to assist farmers who have suffered losses due to the presence of PFAS in soil, water, or agricultural products, reports recommending that the accompanying bill (House, No. 4288) ought to pass.

For the committee,

PAUL A. SCHMID, III.

**HOUSE . . . . . No. 4288**

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**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Third General Court  
(2023-2024)**

An Act protecting our soil and farms from PFAS contamination.

*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 20 of the General Laws is hereby amended by inserting after  
2 section 32 the following section:-

3           Section 33. An individual or entity engaged in the practice of farming, as defined in  
4 section 1A of chapter 128, shall be immune from suit and civil liability for any damages  
5 resulting from claims based on harms caused by PFAS present in soil, water, or agricultural  
6 products as a result of standard agricultural practices. For the purposes of this section, “PFAS”  
7 shall be as defined by the department of environmental protection.

8           SECTION 2. Chapter 29 of the General Laws is hereby amended by inserting after  
9 section 2AAAAAA the following section:-

10           2BBBBBB. There shall be established and set up on the books of the commonwealth a  
11 separate fund to be known as the Agricultural PFAS Relief Fund, which shall be used  
12 exclusively to assist farmers in the commonwealth who have suffered losses or incurred costs  
13 resulting from standard agricultural practices that may have resulted in the actual or suspected

14 presence of PFAS in soil, water, or agricultural products. For the purposes of this section,  
15 “PFAS” shall be as defined by the department of environmental protection.

16 The Agricultural PFAS Relief Fund may receive money from: any appropriations  
17 authorized by the general court specifically designated to be credited to the fund; gifts, grants  
18 and donations from public or private sources; federal reimbursements and grants-in-aid; and any  
19 interest earned from the fund. The commissioner of agricultural resources shall promulgate rules  
20 and regulations to direct the expenditure of money from this fund for purposes including, but not  
21 limited to: testing of soil, water, or agricultural products for PFAS; costs incurred from adapting  
22 management and business practices as a result of the disallowance of use of products containing  
23 PFAS or the disruption of business caused by the presence of PFAS; development and  
24 implementation of educational resources for farmers to adapt to management changes resulting  
25 from the presence of PFAS; physical and mental health needs of farm owners and personnel  
26 resulting from exposure to PFAS; remediation practices and needed infrastructure for the  
27 elimination of PFAS; development of PFAS testing capacity at The University of Massachusetts  
28 Amherst Center for Agriculture, Food and the Environment. Regulations shall follow the  
29 department of agricultural resource’s environmental justice policy.

30 The state treasurer shall be the custodian of the fund and shall receive, deposit and invest  
31 all funds under this section to ensure the highest interest rate available consistent with the safety  
32 of the fund. The books and records of the fund shall be subject to an annual audit by the state  
33 auditor.

34 The department of agricultural resources may expend money in the fund without further  
35 appropriation and no expenditure from the fund shall cause it to be in deficiency at the close of a

36 fiscal year. The commissioner of agricultural resources shall report annually to the house and  
37 senate committees on ways and means and the joint committee on agriculture on income  
38 received into the fund and sources of that income, any expenditure from the fund and the purpose  
39 of that expenditure and the fund's balance. Money in the fund at the end of the fiscal year shall  
40 not revert to the General Fund and shall be available for expenditure in the subsequent year and  
41 shall not be subject to section 5C of chapter 29.

42 SECTION 3. Section 12 of chapter 61A of the General Laws is hereby amended by  
43 inserting after the second paragraph the following paragraph:-

44 No conveyance tax under this section shall be assessed on land that is removed from  
45 agricultural or horticultural use due to regulatory action regarding the actual or suspected  
46 presence of PFAS in soil, water, or agricultural products derived from such land. For the  
47 purposes of this paragraph, "PFAS" shall be as defined by the department of environmental  
48 protection.

49 The commissioner of agricultural resources, in consultation with the commissioner of  
50 revenue and the commissioner of environmental protection, may promulgate regulations to  
51 enforce this paragraph.

52 SECTION 4. Section 13 of chapter 61A of the General Laws is hereby amended by  
53 adding the following subsection:-

54 (e) No roll-back tax imposed by this section shall be assessed on land that no longer  
55 meets the definition of land actively devoted to agricultural, horticultural or agricultural and  
56 horticultural use due to regulatory action regarding the actual or suspected presence of PFAS in

57 soil, water, or agricultural products derived from such land. For the purposes of this subsection,  
58 “PFAS” shall be as defined by the department of environmental protection.

59 The commissioner of agricultural resources, in consultation with the commissioner of  
60 revenue and the commissioner of environmental protection, may promulgate regulations to  
61 enforce this subsection.

62 SECTION 5. Section 8 of Chapter 21A of the General Laws is hereby amended by  
63 inserting after the words “one hundred and sixty-six, inclusive” the following words:- “, one  
64 hundred and seventy-one A”

65 SECTION 6. Chapter 111 of the General Laws is hereby amended by inserting after  
66 section 171 the following section:-

67 Section 171A. (a) For the purposes of this section, the following words shall have the  
68 following meanings:

69 “Agricultural Lime”, shall have the same definition as provided in section 64 of chapter  
70 128.

71 “Biosolids”, treated sewage sludge used for land application and surface disposal;  
72 provided, that the department of environmental protection may further define biosolids and  
73 sludge for the purposes of this section.

74 “Fertilizer”, shall have the same definition as provided in section 64 of chapter 128.

75 "Organic compost", shall have the same definition as provided in section 64 of chapter  
76 128.

77 “PFAS”, shall be as defined by the department of environmental protection.

78 'Soil conditioner", shall have the same definition as provided in section 64 of chapter 128.

79 "Specialty fertilizer", shall have the same definition as provided in section 64 of chapter  
80 128.

81 (b) The department of environmental protection shall set maximum levels for the amount  
82 of PFAS that may be in any fertilizer or other soil amendment sold in the retail market, which  
83 may include, but shall not be limited to, organic compost, mulch, top soil amendment, specialty  
84 fertilizer, soil conditioner and agricultural liming material.

85 (c) The department of environmental protection shall conduct testing for the presence and  
86 amount of PFAS in any fertilizer, or other soil amendment sold in the retail market, which may  
87 include, but shall not be limited to, organic compost, mulch, top soil amendment, specialty  
88 fertilizer, soil conditioner and agricultural liming material.

89 (d) All biosolids being transported from point of origin for land application including, but  
90 not limited to, transfer to composting and fertilizer production facilities, shall be tested by the  
91 department of environmental protection for presence of PFAS. The testing results and records of  
92 the location where 10 tons or more of the biosolids were applied, including street address and  
93 parcel number, shall be kept and maintained by the transporter, and offered to the land or facility  
94 owner, and submitted to the department of environmental protection.

95 SECTION 7. Chapter 128 of the General Laws is hereby amended by inserting after  
96 section 66 the following section:-

97           Section 66A. (a) The commissioner shall not issue a license pursuant to section 66 for the  
98 retail sale of any fertilizer that has not been tested for the presence of PFAS by the department of  
99 environmental protection in accordance with section 171A of chapter 111. For the purposes of  
100 this section, “PFAS” shall be as defined by the department of environmental protection.

101           (b) The commissioner shall not issue a license pursuant to section 66 for the retail sale of  
102 any fertilizer in which the levels of PFAS exceed the maximum levels set by the department of  
103 environmental protection in accordance with section 171A of chapter 111.

104           (c) The commissioner shall not approve an application pursuant to section 66 for  
105 specialty fertilizer, soil conditioner or agricultural liming material in which the levels of PFAS  
106 exceeds the maximum levels set by the department of environmental protection in accordance  
107 with section 171A of chapter 111.

108           SECTION 8. Chapter 128 of the General Laws is hereby amended by inserting after  
109 section 67 the following section:-

110           Section 67A. All fertilizer, organic compost, mulch, top soil amendment, specialty  
111 fertilizer, soil conditioner and agricultural liming material for retail sale which has been tested  
112 for the presence of PFAS in accordance with the requirements of section 171A of chapter 111  
113 and which contains any detectable PFAS shall contain a warning label that states, “Warning:  
114 This product is made from sewage sludge (treated human or industrial waste). This product has  
115 been tested and found to contain perfluoroalkyl and polyfluoroalkyl substances (PFAS), which  
116 may be absorbed in plants and can cause harmful health effects at very low levels.”