

SENATE No. 39**The Commonwealth of Massachusetts**

PRESENTED BY:

Joanne M. Comerford

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 protecting our soil and farms from PFAS contamination.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>1/27/2023</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/2/2023</i>
<i>Anne M. Gobi</i>	<i>Worcester and Hampshire</i>	<i>2/6/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/8/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>2/15/2023</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/15/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>2/15/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/15/2023</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>2/16/2023</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>2/16/2023</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>2/16/2023</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Plymouth and Bristol</i>	<i>2/21/2023</i>
<i>Lydia Edwards</i>	<i>Third Suffolk</i>	<i>3/3/2023</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>3/5/2023</i>
<i>Marcus S. Vaughn</i>	<i>9th Norfolk</i>	<i>3/7/2023</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>3/10/2023</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>3/15/2023</i>

<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>3/29/2023</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>3/30/2023</i>
<i>Susan L. Moran</i>	<i>Plymouth and Barnstable</i>	<i>4/7/2023</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>5/17/2023</i>
<i>John C. Velis</i>	<i>Hampden and Hampshire</i>	<i>6/21/2023</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Worcester and Middlesex</i>	<i>7/11/2023</i>
<i>Margaret R. Scarsdale</i>	<i>1st Middlesex</i>	<i>8/2/2023</i>

SENATE No. 39

By Ms. Comerford, a 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. Agriculture.

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 mean a class of fluorinated organic compounds containing at least one fully fluorinated
8 carbon atom.

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

11 2RRRRR. There shall be established and set up on the books of the commonwealth a
12 separate fund to be known as the Agricultural PFAS Relief Fund, which shall be used

exclusively to assist farmers in the commonwealth who have suffered losses or incurred costs resulting from standard agricultural practices that may have resulted in the actual or suspected presence of PFAS in soil, water, or agricultural products.

For the purposes of this section, “PFAS” shall mean a class of fluorinated organic compounds containing at least one fully fluorinated carbon atom.

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

The state treasurer shall be the custodian of the fund and shall receive, deposit and invest all funds under this section to ensure the highest interest rate available consistent with the safety

of the fund. The books and records of the fund shall be subject to an annual audit by the state auditor.

The department of agricultural resources may expend money in the fund without further appropriation and no expenditure from the fund shall cause it to be in deficiency at the close of a fiscal year. The commissioner of agricultural resources shall report annually to the house and senate committees on ways and means and the joint committee on environment, natural resources and agriculture on income received into the fund and sources of that income, any expenditure from the fund and the purpose of that expenditure and the fund's balance. Money in the fund at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent year and shall not be subject to section 5C of chapter 29.

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

No conveyance tax under this section shall be assessed on land that is removed from agricultural or horticultural use due to regulatory action regarding the actual or suspected presence of PFAS in soil, water, or agricultural products derived from such land. For the purposes of this paragraph, "PFAS" shall mean a class of fluorinated organic compounds containing at least one fully fluorinated carbon atom. The commissioner of agricultural resources, in consultation with the commissioner of revenue and the commissioner of environmental protection, may promulgate regulations to enforce this paragraph.

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

(e) No roll-back tax imposed by this section shall be assessed on land that no longer meets the definition of land actively devoted to agricultural, horticultural or agricultural and horticultural use due to regulatory action regarding the actual or suspected presence of PFAS in soil, water, or agricultural products derived from such land. For the purposes of this subsection, “PFAS” shall mean a class of fluorinated organic compounds containing at least one fully fluorinated carbon atom. The commissioner of agricultural resources, in consultation with the commissioner of revenue and the commissioner of environmental protection, may promulgate regulations to enforce this subsection.

SECTION 5. Chapter 111 of the General Laws is hereby amended by inserting after section 171 the following section:-

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

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

“PFAS”, a class of fluorinated organic compounds containing at least one fully fluorinated carbon atom.

(b) All biosolids being transported from point of origin for land application including, but not limited to, transfer to composting and fertilizer production facilities, shall be tested by the department of environmental protection for presence of PFAS. The testing results and records of the location where 10 tons or more of the biosolids were applied, including street address and

parcel number, shall be kept and maintained by the transporter, offered to the land or facility owner, and submitted to the department of environmental protection.

SECTION 6. Chapter 128 of the General Laws is hereby amended by inserting after section 66 the following section:-

Section 66A. The commissioner shall not issue a license pursuant to Section 66 for the retail sale of any fertilizer, compost, mulch, top soil replacement, or other soil amendments that have not been tested for the presence of perfluoroalkyl and polyfluoroalkyl substances.

The department shall set maximum levels for the amount of perfluoroalkyl and polyfluoroalkyl substances that may be in any fertilizer, compost, mulch, top soil amendment or other soil amendment sold in the retail market.

All fertilizer, compost, mulch, top soil replacement or other soil amendment for retail sale that contains any detectable perfluoroalkyl substance or polyfluoroalkyl substance must contain a warning label that states, "Warning: This product is made from sewage sludge (treated human or industrial waste). This product has been tested and found to contain perfluoroalkyl and polyfluoroalkyl substances (PFAS), which may be absorbed in plants and can cause harmful health effects at very low levels."