

SENATE No.

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:

Joanne M. Comerford

DISTRICT/ADDRESS:

Hampshire, Franklin and Worcester

SENATE No.

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 39 OF 2023-2024.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

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, as appearing in the 2022 Official Edition,
2 is hereby amended by inserting after 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 chemicals containing at least one fully fluorinated
8 carbon atom.

9 SECTION 2. Chapter 29 of the General Laws, as appearing in the 2022 Official Edition,
10 is hereby amended by inserting after section 2DDDDDD the following 2 sections:-

11 2EEEEEE. 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
13 exclusively to assist farmers in the commonwealth who have suffered losses or incurred costs
14 resulting from standard agricultural practices that may have resulted in the actual or suspected
15 presence of PFAS in soil, water or agricultural products. For the purposes of this section,
16 “PFAS” shall mean a class of fluorinated organic chemicals containing at least one fully
17 fluorinated carbon atom. The Agricultural PFAS Relief Fund shall be credited with money from:
18 (i) amounts recovered by the commonwealth and credited thereto in connection with claims
19 arising from the sources of PFAS contamination found in biosolids products applied on
20 agricultural land; (ii) any appropriations authorized by the general court specifically designated
21 to be credited to the fund; (iii) gifts, grants and donations from public or private sources; (iv)
22 federal reimbursements and grants-in-aid; and (v) any interest earned from the fund. The
23 commissioner of agricultural resources shall promulgate rules and regulations to direct the
24 expenditure of money from this fund for purposes including, but not limited to: testing of soil,
25 water or agricultural products for PFAS; costs incurred from adapting management and business
26 practices as a result of the disallowance of use of products containing PFAS or the disruption of
27 business caused by the presence of PFAS; development and implementation of educational
28 resources for farmers to adapt to management changes resulting from the presence of PFAS;
29 physical and mental health needs of farm owners and personnel resulting from exposure to
30 PFAS; remediation practices and needed infrastructure for the elimination of PFAS; and
31 development of PFAS testing capacity at the Center for Agriculture, Food and the Environment
32 at the University of Massachusetts at Amherst. Regulations shall follow the department of
33 agricultural resources’ environmental justice policy.

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

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

46 2FFFFFF. There shall be established and set up on the books of the commonwealth a
47 separate fund to be known as the Agricultural Fertilizer Purchasing Fund, which shall be used to
48 assist commercial farmers in the commonwealth who can demonstrate that they are incurring
49 additional costs in purchasing fertilizer as a result of the disallowance of use of products
50 containing PFAS. The fund shall be administered by the secretary of energy and environmental
51 affairs, in consultation with the commissioner of the department of agricultural resources.

52 The fund shall be credited with appropriations or other money authorized or transferred
53 by the general court and specifically designated to be credited to the fund. Amounts credited to
54 the fund shall be expended to farmers to support the purchase of fertilizer for commercial
55 agricultural purposes in fiscal year 2025 and thereafter. Applications shall be noncompetitive and

56 shall be accepted or denied based only upon whether farmers have met the eligibility
57 requirements. Money remaining in the fund at the end of a fiscal year shall not revert to the
58 General Fund. The fund shall not be subject to section 5C of chapter 29.

59 The secretary shall promulgate regulations to implement this section.

60 SECTION 3. Section 12 of chapter 61A of the General Laws, as appearing in the 2022
61 Official Edition, is hereby amended by inserting after the second paragraph the following
62 paragraph:-

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

70 SECTION 4. Section 13 of said chapter 61A, as so appearing, is hereby amended by
71 adding the following subsection:-

72 (e) No roll-back tax imposed by this section shall be assessed on land that no longer
73 meets the definition of land actively devoted to agricultural, horticultural or agricultural and
74 horticultural use due to regulatory action regarding the actual or suspected presence of PFAS in
75 soil, water or agricultural products derived from such land. For the purposes of this subsection,
76 “PFAS” shall mean a class of fluorinated organic chemicals containing at least one fully
77 fluorinated carbon atom.

78 The commissioner of agricultural resources, in consultation with the commissioner of
79 revenue and the commissioner of environmental protection, shall promulgate regulations to
80 enforce this subsection.

81 SECTION 5. Section 8 of Chapter 21A of the General Laws, as appearing in the 2022
82 Official Edition, is hereby amended by inserting after the words “one hundred and sixty-six,
83 inclusive” the following words:- , one hundred and seventy-one A

84 SECTION 6. Chapter 111 of the General Laws, as appearing in the 2022 Official Edition,
85 is hereby amended by inserting after section 171 the following section:-

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

88 “Biosolids”, treated or untreated sewage sludge.

89 “Department”, the department of environmental protection.

90 “Fertilizer”, shall be as defined in section 64 of chapter 128.

91 “PFAS”, shall mean a class of fluorinated organic chemicals containing at least one fully
92 fluorinated carbon atom.

93 (b) The application of biosolids on land is prohibited.

94 (c) Fertilizer derived from or containing biosolids or sewage sludge, soil amendments
95 derived from or containing sewage sludge and other product or material that is intended for use
96 as a fertilizer, soil amendment, topsoil replacement or mulch or for other similar agricultural
97 purpose that is derived from or contains sludge shall not be sold or otherwise transferred to

98 consumers unless the manufacturer of said product can prove that said product contains no
99 measurable PFAS.

100 (d) A manufacturer of any fertilizer or other soil amendment shall test for the presence of
101 PFAS using analytical methods approved by the department of environmental protection and the
102 department of agricultural resources. The manufacturer shall notify the department of
103 environmental protection of the method and results of said testing in writing regardless of the
104 amount of PFAS present. The manufacturer's written notice shall be submitted electronically in a
105 format to be specified by the department, in consultation with the department of agricultural
106 resources. The department shall make information reported under this subsection available to the
107 public via the department's website.

108 (e) The department of environmental protection, in coordination with the department of
109 public health and the department of agricultural resources, shall promulgate rules and regulations
110 necessary to carry out and enforce this section.

111 SECTION 7. Chapter 128 of the General Laws, as appearing in the 2022 Official Edition,
112 is hereby amended by inserting after section 66 the following section:-

113 Section 66A. (a) The commissioner shall not issue a license pursuant to section 66 for the
114 retail sale of any fertilizer or other soil amendment that has not been tested for the presence of
115 PFAS in accordance with section 171A of chapter 111. For the purposes of this section, "PFAS"
116 shall mean a class of fluorinated organic chemicals containing at least one fully fluorinated
117 carbon atom.

118 (b) The commissioner shall not issue a license pursuant to section 66 for the retail sale of
119 any fertilizer or other soil amendment which contains any measurable PFAS.

120 SECTION 8. Chapter 16 of the General Laws, as appearing in the 2022 Official Edition,
121 is hereby amended by adding the following 2 sections:-

122 Section 25. The department shall investigate and study the sludge disposal needs of the
123 commonwealth, including, but not limited to, appropriate management techniques for source,
124 toxicity and volume reduction, wastewater treatment design and operation and any other
125 innovative, environmentally sound technologies. Said investigation shall identify, to the
126 maximum practical extent:

127 (1) the sources, types, toxicity and quantities of sewage sludge generated at each
128 wastewater treatment plant;

129 (2) the current means for collection, transfer, processing and disposal of sludge, and the
130 length of, and termination date of any existing contract entered into by any city or town for the
131 contracting of the collection, transfer, processing and disposal of sludge; and

132 (3) the adequacy of wastewater treatment facilities to protect employees on-site, the
133 public health, safety and environment.

134 The department, after not less than 3 public hearings, held in geographically diverse areas
135 of the commonwealth, and a public comment period, shall develop and maintain a
136 comprehensive statewide master plan for sludge including any necessary provisions to meet
137 eligibility requirements under any federal program for financial aid in sludge management. Any
138 amendment, alterations or changes to said master plan shall be adopted only after a public
139 hearing.

140 For the purposes of this section, toxicity shall include any and all pathogens, chemicals or
141 other agents or molecules regulated by the commonwealth, and any substance known to cause
142 harm to human health.

143 The comprehensive statewide master plan referred to herein shall describe, to the
144 maximum practicable extent, a short and long-range program for reduction and management of
145 sludge throughout the commonwealth, and the funding for the development of such systems,
146 infrastructure and facilities which the department finds to be reasonably necessary.

147 Without limitation of the foregoing, said plan shall, to the maximum practicable extent,
148 include, but not be limited to:

149 (1) A program for providing technical assistance and funding to cities and towns to
150 develop local sludge management plans;

151 (2) A template local sludge management plan which cities and towns shall adopt and may
152 alter provided that any alterations are certified by the department as being compliance with the
153 goals of this section, and provided further that no city or town shall be required to adopt a plan
154 without having received technical assistance and funding from the department;

155 (3) Goals and measurable benchmarks for the reduction, processing, toxicity and disposal
156 of sludge in the commonwealth, as well as methods and solutions to achieve said goals and
157 benchmarks, including, but not limited to:

158 (i) the creation and maintenance of specialized landfills for sludge disposal;

159 (ii) the transportation of sludge out of the commonwealth;

160 (iii) the implementation of methods for reducing the volume and toxicity of sludge,
161 including by facilitating source reduction and remediation;

162 (iv) the development of new or improved technologies and methods for reducing the
163 volume and toxicity of sludge; and

164 (v) the remediation of toxic chemicals and substances in wastewater and in sludge;

165 (4) Criteria that would trigger updates to the plan, including, but not limited to,
166 advancements in the treatment of sludge, and procedures for determining if and how sludge
167 could possibly be safely applied to land in the commonwealth; and

168 (5) Estimates of the expected financial resources, and any regulatory or statutory changes,
169 needed to implement said plan.

170 The statewide master plan for sludge shall be posted online on the department's website.
171 All data, comments and reporting used by the department in drafting the plan shall be made
172 easily available to the public on the department's website.

173 Section 25A. The department of environmental protection shall establish a grant program
174 to aid municipalities and publicly owned wastewater treatment plants in researching practices
175 and technologies; implementing practices, technologies and programs; and overhauling systems
176 and infrastructure to reduce the volume of sludge and reduce the toxicity of the wastewater
177 entering the treatment plant.

178 SECTION 9. Notwithstanding any general or special law to the contrary, cities and towns
179 which can demonstrate that they are incurring additional costs for sludge disposal under section
180 171A of chapter 111 of the general laws, as inserted by this act, shall annually submit to the

181 division of local services within the department of revenue, itemized financial statements
182 demonstrating costs for sludge disposal for the current fiscal year as well as for the 3 years
183 preceding the effective date of this act. The division shall certify costs submitted by
184 municipalities within 90 days of having received a submission. Any additional costs incurred by
185 a city or town for sludge disposal under section 171A of chapter 11 of the general laws, as
186 inserted by this act, as certified by the division, shall be reimbursed at a rate of 100 per cent not
187 more than 30 days after the costs have been certified, provided that the reimbursement shall be
188 discounted equal to the estimated rate of inflation. For the purposes of this section, sludge shall
189 be defined by section 18 of chapter 16 of the general laws.

190 SECTION 10. The comprehensive statewide master plan required by section 25 of
191 chapter 16 of the General Laws, as inserted by this act, shall be completed not later than
192 December 31, 2026 and shall be submitted to the joint committee on agriculture, the joint
193 committee on the environment and natural resources, the house and senate committees on ways
194 and means and the clerks of the house of representatives and the senate.