

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

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

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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