SENATE No. 1356

The Commonwealth of Massachusetts

PRESENTED BY:

Julian Cyr

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 to protect Massachusetts public health from PFAS.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Julian Cyr	Cape and Islands	
Kate Hogan	3rd Middlesex	
Jack Patrick Lewis	7th Middlesex	1/23/2023
Joanne M. Comerford	Hampshire, Franklin and Worcester	1/25/2023
Rebecca L. Rausch	Norfolk, Worcester and Middlesex	1/25/2023
Adam Scanlon	14th Bristol	1/25/2023
Sarah K. Peake	4th Barnstable	1/25/2023
Angelo J. Puppolo, Jr.	12th Hampden	1/25/2023
Robyn K. Kennedy	First Worcester	1/26/2023
Anne M. Gobi	Worcester and Hampshire	2/7/2023
Jason M. Lewis	Fifth Middlesex	2/7/2023
Michael O. Moore	Second Worcester	2/7/2023
Thomas M. Stanley	9th Middlesex	2/7/2023
Sal N. DiDomenico	Middlesex and Suffolk	2/7/2023
Kimberly N. Ferguson	1st Worcester	2/7/2023
Patrick M. O'Connor	First Plymouth and Norfolk	2/8/2023
Kay Khan	11th Middlesex	2/22/2023
Carmine Lawrence Gentile	13th Middlesex	2/22/2023

James B. Eldridge	Middlesex and Worcester	2/22/2023
John F. Keenan	Norfolk and Plymouth	2/22/2023
Lydia Edwards	Third Suffolk	3/7/2023
Paul R. Feeney	Bristol and Norfolk	3/7/2023
Marcus S. Vaughn	9th Norfolk	3/7/2023

SENATE DOCKET, NO. 2053 FILED ON: 1/20/2023

SENATE No. 1356

By Mr. Cyr, a petition (accompanied by bill, Senate, No. 1356) of Julian Cyr, Kate Hogan, Jack Patrick Lewis, Joanne M. Comerford and other members of the General Court for legislation to protect Massachusetts public health from PFAS. Public Health.

The Commonwealth of Massachusetts

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

An Act to protect Massachusetts public health from PFAS.

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 10 of the General Laws is hereby amended by inserting after
2	section 35SSS the following section:-
3	Section 35TTT. (a) As used in this section, the following words, unless the context
4	clearly requires otherwise, shall have the following meanings:-
5	"Board of health", any body politic or political subdivision of the commonwealth that
6	acts as a board of health, public health commission or a health department for a municipality,
7	region or district, including, but not limited to, municipal boards of health, regional health
8	districts established pursuant to G.L. c. 111, § 27B and boards of health that share services
9	pursuant to G.L. c. 40, § 4A.
10	"Office", executive office of energy and environmental affairs.
11	"Per- and polyfluoroalkyl substances" or "PFAS", as defined in 310 CMR 22.07G.

12 "Regional system", any system established by mutual agreement of 2 or more 13 municipalities or by a county in which all municipalities of said county have an agreement to 14 provide drinking water or wastewater services, or both, through shared facilities, sources or 15 distribution networks.

16

"Secretary", secretary of energy and environmental affairs.

(b) (1) There shall be a PFAS Remediation Trust Fund. Expenditures from the fund shall
be made by the executive office of energy and environmental affairs, without further
appropriation and consistent with the terms of settlements made in connection with claims
arising from the manufacture, marketing or sale of PFAS-containing aqueous film-forming foam,
as applicable. The secretary of energy and environmental affairs shall administer the fund.

22 (2) The fund shall be expended to mitigate the impacts of PFAS contamination in 23 drinking water, groundwater, and soil in the commonwealth, including, but not limited to, 24 assisting municipalities, private well owners, and public water systems with the cost of PFAS 25 remediation projects. Amounts credited to the fund shall not be subject to further appropriation 26 and monies remaining in the fund at the end of the fiscal year shall not revert to the General 27 Fund, but shall instead be available for expenditure during the next fiscal year. Any fiscal year-28 end balance in the fund shall be excluded from the calculation of the consolidated net surplus 29 pursuant to G.L. c. 29, § 5C.

(3) There shall be credited to the fund: (i) amounts recovered by the commonwealth and
 credited thereto in connection with claims arising from the manufacture, marketing or sale of
 PFAS-containing aqueous film-forming foam; (ii) transfers from other funds authorized by the
 general court and so designated; (iii) funds from public or private sources, including, but not

limited to, gifts, grants, donations, rebates and settlements received by the commonwealth
designated to the fund; and (iv) any interest earned on such amounts.

36 (c) The secretary shall award and administer grants from the fund, without further 37 appropriation, for the purpose of addressing exceedances of state cleanup standards for PFAS in 38 drinking water, groundwater and soil to: (i) municipalities for municipal use, including, but not 39 limited to, establishing connections to regional systems and funds necessary to address the 40 reasonable administrative costs of the municipality; (ii) boards of health for use in assisting 41 private well users; (iii) community water systems for use on an existing system or to expand a 42 system to assist additional water users; and (iv) non-transient non-community water systems.

43 (d) The office shall adopt rules, and include conditions in grant documents, to ensure that 44 the applicant has made and will make reasonable efforts to obtain and use funds from any liable 45 or potentially liable third party, excluding public sector fire departments for the use of Class B 46 firefighting foam in emergency responses, prior to and after receiving a grant. In addition, the 47 office shall adopt rules establishing criteria to ensure that an applicant shall not be eligible for 48 grants for any project or portion of a project to the extent the negligence of the applicant caused 49 the contamination that resulted in the exceedance of state cleanup standards for PFAS in drinking 50 water, groundwater and soil.

(e) If the office provides a grant related to costs for a project for which a third party might otherwise be liable, the right to recover payment from such third party, excluding public sector fire departments for the use of Class B firefighting foam in emergency responses, shall be subrogated to the office to the extent of such forgiveness or grant. Any money recovered by the office from such third parties shall be deposited in the PFAS Remediation Trust Fund. (f)(1) The office may collaborate with the department of public health to provide funding for boards of health to establish a program of rebates to private well users. Eligible spending for rebate shall include, but not be limited to, sampling of private well water for PFAS regulated by the department of environmental protection under 310 CMR 22.00 and purchase of point-ofentry or point-of-use treatment systems to remove PFAS from drinking water.

(2) Boards of health may opt in to receive funding from the office pursuant to paragraph
(1), and may apply for and receive funds from the office necessary to cover reasonable
administrative costs related to implementation of said paragraph (1). Boards of health that opt in
shall amend their codes to require private well water quality testing for PFAS for property sales
and new construction.

66 (3) Annually, not later than August 31, boards of health that opt in under paragraph (2)
67 shall submit a report to the office including information demonstrating compliance during the
68 preceding fiscal year with said paragraph (2).

69 (g) Annually, not later than October 1, the secretary shall file a report on the activity, 70 revenue and expenditures to and from the fund in the prior fiscal year with the clerks of the 71 house of representatives and the senate and the house and senate committees on ways and means, 72 and shall make the report available on the office's website. The report shall include, but not be 73 limited to: (i) revenue credited to the fund; (ii) the amount of expenditure attributable to the 74 administrative costs of the office; (iii) an itemized list of the funds expended from the fund; and 75 (iv) data and an assessment of how well resources have been directed to environmental justice 76 communities.

77	SECTION 2. Chapter 21 of the General Laws is hereby amended by inserting after
78	section 43A the following section:-

79	Section 43B. (a) The department of environmental protection shall amend its
80	groundwater discharge permits with requirements for quarterly monitoring and reporting of per-
81	and polyfluoroalkyl substances, commonly referred to as "PFAS".
82	(b) The department shall amend its surface water discharge permits and groundwater
83	discharge permits issued to industrial permittees with requirements to implement best
84	management practices for discharges of PFAS, including, but not limited to: (i) product
85	elimination or substitution when a reasonable alternative to using PFAS is available in the
86	industrial process; (ii) accidental discharge minimization; and (iii) equipment decontamination or
87	replacement where PFAS products have historically been used.
88	(c) The department shall propose rules and regulations pursuant to G.L. c. 21, § 27 for
89	effluent limitations and pre-treatment requirements for PFAS in groundwater discharge.
90	SECTION 3. Chapter 21A of the General Laws is hereby amended by inserting after
91	section 28 the following section:-
92	Section 29. (a) The office, in collaboration with the executive office of health and human
93	services, shall develop and implement a multilingual outreach program to promote the education
94	of environmental justice populations impacted by per- and polyfluoroalkyl substances,
95	commonly referred to as "PFAS", contamination. This program shall include the development
96	and distribution of educational materials, the content of which shall include, but not be limited
97	to: (i) the health effects of PFAS exposure; (ii) the routes of PFAS exposure; (iii) a list of
98	facilities required to prepare a toxics use reduction plan for PFAS within 10 miles of the

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99 environmental justice community; (iv) citizen involvement pursuant to G.L. c. 21I, § 18; and (v)
100 state assistance programs for PFAS remediation.

(b) The educational materials shall be translated into the primary languages of impacted
environmental justice populations. Such educational materials shall be made available to, but not
be limited to: (i) community centers; (ii) health care centers; and (iii) schools.

(c) The office may contract or associate with public and private agencies and
 organizations for the preparation of said educational materials on PFAS exposure, other pertinent
 resource information on the matter of PFAS contamination and conducting educational
 programs.

SECTION 4. Chapter 111 of the General Laws is hereby amended by inserting after
 section 5S the following sections:-

Section 5T. (a) As used in this section, the following words shall, unless the context
clearly requires otherwise, have the following meanings:-

"Food package", a package or packaging component that is intended for the marketing,
protection or handling of a product intended for food contact or used to store food and foodstuffs
for sale.

"Manufacturer", a person, firm, association, partnership, government entity, organization,
joint venture or corporation that applies a package to a product for distribution or sale.

117 "Package", a container providing a means of marketing, protecting or handling a product118 which shall include a unit package, an intermediate package, a package used for shipping or

transport and unsealed receptacles such as carrying cases, crates, cups, pails, rigid foil and other
trays, wrappers and wrapping films, bags and tubs.

121 "Packaging component", an individual assembled part of a package including, but not
122 limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior
123 strapping, coatings, closures, inks and labels.

124 "Per- and polyfluoroalkyl substances" or "PFAS", a class of fluorinated substances that125 contain at least one fully fluorinated methyl or methylene carbon atom.

126 (b) No manufacturer shall sell, offer for sale, distribute for sale, or distribute for use in

127 the commonwealth food packaging to which PFAS have been intentionally added in any amount.

Section 5U. (a) As used in this section, the following words shall, unless the contextclearly requires otherwise, have the following meanings:-

130 "Child passenger restraint", a child passenger restraint under G.L. c. 90, § 7AA.

131 "Children's products", a consumer product, including its product components, intended,

132 made or marketed for use by children 12 years of age or under, not including medical devices.

133 "Consumer product," any article that, to any significant extent, is distributed in

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134	commerce for	personal	use or	consump	lion	by	indiv	iduals.

"Cookware", durable houseware items that are used in homes and restaurants to prepare,
dispense, or store food, foodstuffs or beverages, including, but not limited to, pots, pans, skillets,
grills, baking sheets, baking molds, trays, bowls and cooking utensils.

138	"Current unavoidable use", a use of PFAS that the department has determined under this
139	section to be essential for health, safety or the functioning of society and for which alternatives
140	are not reasonably available.
141	"Distributor", any person, firm or corporation who takes title to goods, produced either
142	domestically or in a foreign country, purchased for resale or promotional purposes.
143	"Fabric treatment", a substance applied to fabric, carpets, rugs, shoes or textiles to impart
144	characteristics, including, but not limited to, stain resistance or water resistance.
145	"Intentionally added", the addition of a chemical to a final product or product component
146	for the purpose of providing a specific characteristic, appearance or quality or to perform a
147	specific function in the product or product component, including PFAS that are intentional
148	chemical breakdown products or derivatives of an added chemical that also have a specific
149	function in the product or product component.
150	"Manufacturer", any person, firm or corporation that manufactures a product whose
151	brand name is affixed to the product. In the case of a product imported into the United States,
152	"manufacturer" includes the importer or first domestic distributor of the product if the person
153	that manufactured or assembled or whose brand name is affixed to the product does not have a
154	presence in the United States.
155	"Per- and polyfluoroalkyl substances" or "PFAS", a class of fluorinated substances that
156	contain at least one fully fluorinated methyl or methylene carbon atom.
157	"Personal care products", articles intended to be rubbed, poured, sprinkled, or sprayed on,
158	introduced into or otherwise applied to the human body for cleansing, beautifying, promoting

attractiveness or altering the appearance. Personal care products shall include products such as
skin moisturizers, perfumes, lipsticks, fingernail polishes, eye and facial makeup preparations,
shampoos, permanent waves, hair colors, toothpastes, sunscreen, hair spray, shaving cream and
deodorants, as well as any material intended for use as a component of a cosmetic product.
Personal care products shall also include disposable menstrual products such as sanitary napkins,
tampons and underwear liners.

165 "Product component", a component of a product, including the product's ingredients or a 166 part of the product, regardless of whether the manufacturer of the product is the manufacturer of 167 the component.

168 "Product label", a display of written, printed or graphic material that appears on, or is 169 affixed to, the exterior of a product, or its exterior container or wrapper that is visible to a 170 consumer, if the product has an exterior container or wrapper.

171 "Retailer", any person, firm or corporation to whom a consumer product is delivered or
172 sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers
173 who buy such product for purposes other than resale.

174 "Rugs and carpets", fabric used to or marketed to cover floors.

175 "Upholstered furniture", as defined in G.L. c. 94, § 270.

176 "Wholesaler," any person, firm or corporation to whom a consumer product is delivered
177 or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers
178 who buy such product for purposes of resale.

(b) (1) No manufacturer, distributor, wholesaler or retailer shall offer for sale, sell or
distribute in the commonwealth any of the following products or product categories to which
PFAS have been intentionally added: (i) child passenger restraints; (ii) cookware; (iii) fabric
treatments; (iv) personal care products; (v) rugs and carpets; (vi) upholstered furniture; and (vii)
children's products.

184 (2) The prohibitions of this subsection shall not apply to the sale or resale of used185 products.

(3) Products or product categories in which the use of PFAS is a currently unavoidable
use, as determined by the department, may be exempted by the department at intervals of no
more than 3 years.

(c) (1) No manufacturer, distributor, wholesaler or retailer shall offer for sale, sell or
distribute in the commonwealth any products to which PFAS have been intentionally added,
unless the department has determined that the use of PFAS in the product is a currently
unavoidable use and grants a temporary exemption at intervals of no more than 3 years.

(2) The prohibitions of this subsection shall not apply to the sale or resale of usedproducts.

195 (d) The department shall adopt regulations to implement this section.

(e) The attorney general shall have the authority to enforce the provisions of this section
pursuant to G.L. c. 93A, § 4.

(f) (1) Notwithstanding any general or special law to the contrary, the department of
public health shall establish, on or before June 1, 2025, a publicly accessible reporting platform

to collect information about per- and polyfluoroalkyl substances, or "PFAS", and products or
product components containing PFAS being sold, offered for sale, distributed or offered for
promotional purposes in, or imported into, the state. The department may consult with Interstate
Chemicals Clearinghouse to establish such a platform.

204 (2) On or before June 1, 2026, and on or before June 1 of each year thereafter, a 205 manufacturer of PFAS or a product or product component containing intentionally added PFAS 206 that is sold, offered for sale, distributed or offered for promotional purposes in, or imported into, 207 the state shall register the PFAS or the product or product component containing intentionally 208 added PFAS on the publicly accessible reporting platform created pursuant to paragraph (1), 209 along with all of the following information, as applicable: (i) the name and type of product or 210 product component containing intentionally added PFAS; (ii) the universal product code, or 211 "UPC," of the product or product component containing intentionally added PFAS; (iii) how the 212 PFAS are, or the product or product component containing intentionally added PFAS are, used 213 by businesses or consumers; (iv) the specific names of all PFAS compounds in the product or 214 product component containing intentionally added PFAS and the Chemical Abstracts Service 215 Registry Number, also known as a "CAS Registry Number" or "CAS RN," of each PFAS 216 compound; (v) the amount of the product or the product component or the numbers of products 217 or product components sold, delivered or imported into the state; (vi) the name and address of 218 the manufacturer, and the name, address and phone number of the contact person for the 219 manufacturer; and (vii) any additional information established by the department as necessary to 220 implement the requirements of this section.

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(3) With the approval of the department, a manufacturer may supply the information
required in paragraph (2) for a category or type of product rather than for each individual
product.

(4) In a manner determined by the department, a manufacturer shall update and revise the
information required under paragraph (2) whenever there is a significant change in the
information or when requested to do so by the department.

(5) The department may establish by regulation and assess a fee payable by a
 manufacturer upon submission of the notification required under paragraph (2) to cover the
 department's reasonable costs in developing and administering this section.

(g) (1) A manufacturer of products registered under paragraph (2) of subsection (f) shall
send an electronic notification to distributors and wholesalers of the product that the product
contains PFAS.

(2) A distributor or wholesaler who receives a notification pursuant to paragraph (1) shall
send an electronic notification to retailers of the product that the product contains PFAS.

235 (3) The department shall adopt regulations to implement this subsection.

(4) The attorney general shall have the authority to enforce the provisions of this
subsection under G.L. c. 93A, § 4.

(h) A manufacturer of products registered under paragraph (2) of subsection (f) shall state
the presence of PFAS on a product label that is visible and legible to the consumer, including on
the product listing for online sales. Products that meet both of the following requirements are
exempt from the requirements of this section: (i) the surface area of the product cannot fit a

product label of at least two square inches; and (ii) the product does not have either (1) an
exterior container or wrapper on which a product label can appear or be affixed, or (2) a tag or
other attachment with information about the product attached to the product.

- (i) A manufacturer of any of the following products that is sold, offered for sale,
 distributed or offered for promotional purposes in, or imported into, the state shall test for the
 presence of unintentionally added PFAS using analytical methods approved by the department:
 (i) child passenger restraints; (ii) cookware; (iii) fabric treatments; (iv) personal care products;
 (v) rugs and carpets; (vi) upholstered furniture; and (vii) children's products.
- SECTION 5. Chapter 111 of the General Laws is hereby amended by inserting after
 section 244 the following sections:-

252 Section 245. (a) The department, in consultation with the department of environmental 253 protection, shall design and implement a public awareness campaign to inform Massachusetts 254 residents of per- and polyfluoroalkyl substances, commonly referred to as "PFAS", 255 contamination across the commonwealth and potential health impacts of PFAS exposure. The 256 campaign shall include, but is not limited to, the following subjects: (i) PFAS exposure 257 pathways, including drinking water, groundwater, surface water, wastewater, land application of 258 biosolids, landfills, air and fish tissue; (ii) consumer products that are known to contain PFAS; 259 (iii) PFAS in Class B firefighting foam; (iv) facilities that are known and potential sources of 260 PFAS in the commonwealth; (v) potential health impacts of PFAS exposure; and (vi) state 261 assistance programs for PFAS remediation.

(b) The department of public health shall develop informational booklets about PFAS and
make the booklets available to all health care professionals, community health centers, and

264 members of the public upon their request. The department shall publicize and make available the 265 booklet to the maximum extent possible, and shall make the booklet available electronically on 266 its website in English and Spanish. This information may be revised by the department whenever 267 new information about the health impacts of PFAS becomes available.

Section 246. (a) The following terms shall, unless the context clearly requires otherwise,
have the following meanings:-

270 "Firefighting personal protective equipment" means any clothing designed, intended or 271 marketed to be worn by firefighting personnel in the performance of their duties, designed with 272 the intent for the use in fire and rescue activities, including jackets, pants, shoes, gloves, helmets 273 and respiratory equipment.

274 "Local governments" includes any county, city, town, fire district, regional fire protection
275 authority, or special purpose district that provides firefighting services.

"Manufacturer", any person, firm or corporation that manufactures or distributes
firefighting agents or firefighting equipment. In the case of a product imported into the United
States, "manufacturer" includes the importer or first domestic distributor of the product if the
person that manufactured or assembled or whose brand name is affixed to the product does not
have a presence in the United States.

281 "Per- and polyfluoroalkyl substances" or "PFAS", a class of fluorinated substances that
282 contain at least one fully fluorinated methyl or methylene carbon atom.

(b) (1) A manufacturer or other person that sells firefighting personal protective
equipment containing PFAS to any person, local government or state agency shall provide

285	written notice to the purchaser at the time of sale: (i) that the firefighting personal protective
286	equipment contains PFAS; and (ii) the reason PFAS are added to the equipment.
287	(2) The manufacturer or other person selling firefighting personal protective equipment
288	and the purchaser of the equipment shall retain a copy of the notice required pursuant to this
289	subsection on file for at least 3 years from the date of the purchase. Upon the request of the
290	department, a person, manufacturer, or purchaser shall furnish the notice, or written copies, and
291	associated sales documentation to the department within 60 days of such request.
292	SECTION 6. Said section 246 of said chapter 111 of the General Laws, is hereby
293	amended by striking out subsection (b) and inserting in place thereof the following subsection:-
294	(b) A manufacturer or other person that sells firefighting personal protective equipment to
295	any person, local government, or state agency shall not manufacture, knowingly sell, offer for
296	sale, distribute for sale, or distribute for use in the commonwealth any firefighting personal
297	protective equipment containing intentionally added PFAS.
298	SECTION 7. (a) Notwithstanding any general or special law to the contrary, no person,
299	local government or state agency shall use a Class B firefighting foam that contains intentionally
300	added PFAS in any amount for training or testing purposes.
301	(b) Any person, unit of local government, fire department, or state agency that discharges
302	or releases Class B firefighting foam that contains intentionally added PFAS must notify the
303	department of environmental protection's emergency response line within 48 hours of the
304	discharge or release.

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305 (c) The department of public health shall collect data on occupational exposure to PFAS,
306 including, but not limited to, firefighters, and shall report data through the Massachusetts Cancer
307 Registry.

308 SECTION 8. The department of environmental protection shall amend the private well 309 guidelines, last updated July 2018, and model BOH regulation for private wells, last updated July 310 2018, to include language for testing, monitoring, and remediation of per- and polyfluoroalkyl 311 substances regulated by the department under 310 CMR 22.07G(3).

312 SECTION 9. Subsection (a) of section 43B of chapter 21 of the General Laws shall take
313 effect six months after United States Environmental Protection Agency Method 1633 is available
314 to the public.

315 SECTION 10. Subsection (b) of said section 43B of said chapter 21 shall take effect on
316 the 180th day following enactment.

317 SECTION 11. Subsection (c) of said section 43B of said chapter 21 shall take effect two
 318 years after United States Environmental Protection Agency Method 1633 is available to the
 319 public.

320 SECTION 12. Section 5T of said chapter 111 shall take effect January 1, 2026.

321 SECTION 13. Subsection (b) of said section 5U of said chapter 111 shall take effect
322 January 1, 2026.

323 SECTION 14. Subsection (c) of said section 5U of said chapter 111 shall take effect
 324 January 1, 2030.

325	SECTION 15. Paragraph (1) of said subsection (g) of said section 5U of said chapter 111
326	shall take effect June 1, 2026.
327	SECTION 16. Subsection (h) of said section 5U of said chapter 111 shall take effect
328	January 1, 2026.
329	SECTION 17. Subsection (i) of said section 5U of said chapter 111 shall take effect
330	January 1, 2030.
331	SECTION 18. Section 245 of said chapter 111 shall take effect on the 180th day
332	following enactment.
333	SECTION 19. Section 246 of said chapter 111 shall take effect January 1, 2025.
334	SECTION 20. Section 6 shall take effect January 1, 2026.