



HOUSE OF REPRESENTATIVES

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**Testimony of Rep. Henry Ingwersen presenting
LD 2160: An Act Relating to the Statute of Limitations for Injuries or Harm Resulting
from Perfluoroalkyl and Polyfluoroalkyl Substances
before the Joint Standing Committee on Judiciary**

July 28, 2020

Good afternoon Senator Carpenter, Representative Bailey, and esteemed members of the Judiciary Committee. My name is Representative Henry Ingwersen, and I represent the good people of House District 10 - Arundel, Dayton, and part of Lyman. I am here today to testify in support of my bill **LD 2160, An Act Relating to the Statute of Limitations for Injuries or Harm from Perfluoroalkyl and Polyfluoroalkyl Substances.**

I want to begin by taking a moment to thank each of you for your consideration and courage shown in your willingness to consider this bill during these unique times. As you will learn, this proposed legislation has a crucial impact on a neighboring dairy farm and perhaps others in my district and our state as well, which is why I am considering this issue worthy of emergency deliberation at this time.

PFAS (**P**er- and **p**oly-**F**luoro**A**lkyl **S**ubstances) are a large group of synthetic fluorinated chemicals consisting of over 4,000 separate compounds. Because of their extremely strong bond between the fluorine and carbon atoms, this family of chemicals takes a long time to break down in the environment, hence their apt name “forever chemicals.”

The two most commonly used PFAS compounds were PFOA and PFOS, used in households for decades across the country in non-stick, grease-resistant convenience items, and contained in firefighting foam used to quickly extinguish petroleum-based fires. Though PFOA and PFOS were phased out of production in the early 2000’s, they were replaced with a wide variety of other PFAS that are still used in stain and oil-resistant products - clothing, furniture fabric, food

packaging, carpets, cookware, outdoor recreational items, and electronics. Because these PFAS chemicals were and still are so widely used and don't easily break down, they are present in our wastewater in septic tanks and treatment plants. Since PFAS has been and continues to be used in so many products, coupled with the fact that these PFAS compounds bioaccumulate in soil and groundwater, human exposure is widespread.

Scientists are still learning about the health effects from exposure to PFAS, but studies so far have shown that these compounds decrease how well the body responds to vaccines, increase cholesterol levels, increase the risk of thyroid disease, decrease fertility, increase the risk of high blood pressure in women, lower infant birth weights, and increase the risk of kidney and testicular cancer. Documents on file with the Environmental Protection Agency report that 3M, a manufacturer of PFAS, knew as early as the 1970's that PFAS was accumulating in human blood and that 3M's own animal studies concluded that PFAS compounds should be regarded as toxic.

I first became aware of PFAS contamination in Maine when I met Fred Stone in 2018. Fred and his wife Laura own and operate Stoneridge Farm, a 100 acre dairy farm just down the road from my house in Arundel. Stoneridge Farm has been in their family for over 100 years, and Fred and Laura are the third generation to own and operate the farm.

Fred's problems began in November of 2016, when he received a letter from the local water district saying that tests showed a well providing his and his cows' drinking water was contaminated with over twice the EPA advisory limit of 70 parts per trillion (ppt) for PFOS, a chemical Fred had never heard of before and had no idea how it got there. The Maine DEP later concluded that the source of the contamination was wastewater sludge spread on the farm as fertilizer under a state-sponsored program from 1983 - 2004. In 2016 Fred began voluntary testing of his water, soil, hay used for feed, cows, milk, and both his and Laura's blood and found it all to be contaminated with PFAS. There are currently soil locations on Fred's farm that still test as high as 800,000 parts per trillion.

Fred has not been able to sell his milk to Oakhurst Dairy since January of 2019 due to readings in his milk as high as 1,400 parts per trillion. He has thrown out his milk, installed a water filtration system, and bought hay and feed from elsewhere, all at his own expense. Fred also took the extreme and painful measure of slaughtering over half of his dairy cows, yet the PFAS contamination has persisted.

In March of 2019 Governor Mills took notice of the problems of PFAS contamination at Stoneridge Farm and established an executive order to create the Governor's Maine PFAS Task Force, consisting of eleven members representing public health, municipal drinking water organizations, industry, DEP, Dept of Agriculture, DHHS, and a Maine-based environmental

advocacy group, among others. The result was the January 2020 report “Managing PFAS in Maine: Final Report from the Maine PFAS Task Force.” The report was an exhaustive study which concluded with many important recommendations for the State of Maine to consider.

This proposed legislation before you arises out of one such PFAS Task Force recommendation, which I will quote from page 28 of the report:

“A majority (8) of Task Force members recommend that the Legislature consider revising the statute of limitations for private claims to be within six years of discovery of PFAS contamination on private property”

Under current Maine law, individuals, businesses, farms and municipalities affected by PFAS contamination may be prevented from seeking a civil remedy because the existing Maine statute of limitations for personal injury and damage to real property is limited to six years from the *occurrence* of contamination. PFAS chemicals were widely produced and distributed for decades before their harmful effects became known by individuals. Furthermore, PFAS contamination due to land-spreading, landfill leachate, the use of firefighting foam, and other sources may have *occurred* decades before any affected individual became aware of the contamination and subsequent harm from these PFAS compounds. Therefore, this bill would simply add language to Sec. 1. 14 MRSA 752 to read:

“An action arising out of any harm or injury caused by a perfluoroalkyl or polyfluoroalkyl substance must be commenced within 6 years after the date the plaintiff discovers or reasonably should have discovered such harm or injury. For the purposes of this section “perfluoroalkyl or polyfluoroalkyl substance” means any member of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom”

At least 38 other states recognize a discovery rule in cases where people or property are injured by substances with latent harmful effects, such as PFAS. This proposed legislation and the addition of a discovery clause into Maine statute is specific to PFAS because this is a majority recommendation of the Governor’s PFAS Task Force, which was specifically charged to examine the extent of PFAS use and contamination in Maine and come up with recommendations regarding this “forever chemical.” It is especially fitting that a discovery rule be recommended for PFAS because of its ability to bioaccumulate in soil and water and its persistence in the environment for a long, long period of time. We still don’t yet know where else in Maine PFAS contamination may be hiding nor the health and property damage that may have occurred.

As we here in Maine move forward in actualizing many of the pioneer recommendations of the Governor's PFAS Task Force such as identifying prioritized locations through testing of soil, groundwater, and surface water, we will likely discover more sites including farms and private properties where PFAS contamination exists. Sludge, for instance, was applied to farms across the state of Maine beginning in the 1980's. By the year 2000, over 225 locations statewide were permitted to receive it. Who will pay for the loss of livelihoods, the disappearing farms, the contaminated drinking water, and other negative impacts on human health and the environment that may result? Should these costs be borne by the public, as is the case with the Kennebunk, Kennebunkport, and Wells Water District where the ratepayers are footing the bill for a very expensive water filtration system for one of their wells contaminated by PFAS? Should private citizens be left to fend for themselves, as is the case with Fred and Laura Stone who've had no help to save their farm except from generous friends and neighbors? Or should municipalities, water districts, farmers, and businesses be able to request that costs be paid by the manufacturers, who've known since at least the 1970's that PFAS harms human health and does not break down in the environment, and who knowingly concealed this information from the public?

Fred and Laura Stone, who have thrown out milk since 2016 and haven't received any income on their farm since then, have spent many thousands of dollars installing water filters, maintaining them, buying off-site feed, and replacing cows they've had to put down. Still there is no relief from this pernicious PFAS, and milk continues to be thrown out. As Fred said:

“Nowhere along the way here did we want to play Don Quixote. I'd just like to be left. Milk my cows and be left the hell alone and let me go about my life.”

With the work of the PFAS Task Force and its resulting report and recommendations, Maine has shown that it can again be a leader in protecting its private citizens from the damages to the environment, human health, livelihoods, and property due to toxic chemicals such as PFAS. Enacting this one majority recommendation from the Task Force will not return Fred and Laura Stone to dairy farming at Stoneridge Farm again - that working dairy farm down the road is likely gone forever. However, taking action on this recommendation could simply pave the way for Fred, Laura, and other Mainers to seek compensation for the loss of their family's livelihood and good health caused by this terrible chemical.

Thank you for your consideration. I would be happy to answer any questions.