

HOUSE No. 03982

The Commonwealth of Massachusetts

PRESENTED BY:

Martin J. Walsh

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 passage of the accompanying bill:

An Act relative to Congo conflict minerals.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Sal N. DiDomenico</i>	<i>Middlesex, Suffolk, and Essex</i>
<i>Anthony W. Petruccelli</i>	<i>First Suffolk and Middlesex</i>
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Carlos Henriquez</i>	<i>5th Suffolk</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>

<i>Barry R. Finegold</i>	<i>Second Essex and Middlesex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Susan C. Fargo</i>	<i>Third Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>

HOUSE No. 03982

By Representative Walsh of Boston and Senator DiDomenico, a joint petition (subject to Joint Rule 12) of Martin J. Walsh, Sal N. DiDomenico and others for legislation to prohibit the Commonwealth from contracting with companies that do not comply with federal regulations for the certification of minerals originating in the Congo. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven
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An Act relative to Congo conflict minerals.

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 7 of the General Laws is hereby amended by inserting after Section 22N,
2 the following Section 22O:

3 The Legislature finds and declares all of the following:

4 (a) The Democratic Republic of Congo was devastated by a civil war carried out in 1996 and
5 1997 and a war that began in 1998 and ended in 2003, which resulted in widespread human
6 rights violations and the intervention of multiple armed forces or armed non-state actors from
7 other countries in the region.

8 (b) Despite the signing of a peace agreement and subsequent withdrawal of foreign forces in
9 2003, the eastern region of the Democratic Republic of Congo has continued to suffer from high

10 levels of poverty, insecurity, and a culture of impunity, in which illegal armed groups and
11 military forces continue to commit widespread human rights abuses.

12 (c) According to a study by the International Rescue Committee released in January 2008,
13 conflict and the related humanitarian crisis in the Democratic Republic of Congo have resulted in
14 the deaths of an estimated 5,400,000 people since 1998 and continue to cause as many as 45,000
15 deaths each month.

16 (d) Sexual violence and rape remain pervasive tools of warfare used by all parties in eastern
17 region of the Democratic Republic of Congo to terrorize and humiliate communities, resulting in
18 community breakdown which causes a decrease in the ability of affected communities to resist
19 control by illegal armed forces and a loss of community access to minerals. Sexual violence and
20 rape affect hundreds of thousands of women and girls, frequently resulting in traumatic fistula,
21 other severe genital injuries, and long-term psychological trauma.

22 (e) A report released by the Government Accountability Office in December 2007 describes how
23 the mismanagement and illicit trade of extractive resources from the Democratic Republic of
24 Congo supports conflict between militias and armed domestic factions in neighboring countries.

25 (f) In October 2002, the United Nations Group of Experts on the Democratic Republic of Congo
26 called on member states of the United Nations to adopt measures, consistent with the guidelines
27 established for multinational enterprises by the Organization for Economic Co-operation and
28 Development, to ensure that enterprises in their jurisdiction do not abuse principles of conduct
29 that they have adopted as a matter of law.

30 (g) In February 2008, the United Nations Group of Experts on the Democratic Republic of
31 Congo stated, “individuals and entities buying mineral output from areas of the eastern part of

32 the Democratic Republic of Congo with a strong rebel presence are violating the sanctions
33 regime when they do not exercise due diligence to ensure their mineral purchases do not provide
34 assistance to illegal armed groups” and defined due diligence as including the following:
35 determining the precise identity of the deposits from which the minerals they intend to purchase
36 have been mined; establishing whether or not these deposits are controlled or taxed by illegal
37 armed groups; and refusing to buy minerals known to originate, or suspected to originate, from
38 deposits controlled or taxed by illegal armed groups.

39 (h) In its final report, released on December 12, 2008, the United Nations Group of Experts on
40 the Democratic Republic of the Congo found that official exports of columbite-tantalite,
41 cassiterite, wolframite, and gold are grossly undervalued and that various illegal armed groups in
42 the eastern region of the Democratic Republic of Congo continue to profit greatly from these
43 natural resources by coercively exercising control over mining sites from where they are
44 extracted and locations along which they are transported for export.

45 (i) United Nations Security Council Resolution 1857, unanimously adopted on December 22,
46 2008, broadens existing sanctions relating to the Democratic Republic of Congo to include
47 “individuals or entities supporting the illegal armed groups ... through illicit trade of natural
48 resources”; and encourages member countries to ensure that companies handling minerals from
49 the Democratic Republic of Congo exercise due diligence on their suppliers.

50 (j) Continued weak governance in the Democratic Republic of Congo has allowed the illicit trade
51 in the minerals columbite-tantalite, cassiterite, wolframite, and gold to flourish, which empowers
52 illegal armed groups, undermines local development, and results in a loss or misuse of tax
53 revenue for the Government of the Democratic Republic of Congo. The development of stronger

54 governance and economic institutions that support legitimate cross-border trade in such minerals
55 would help prevent the exploitation of such minerals by illegal armed groups and enable the
56 hundreds of thousands of people who depend on such minerals for their livelihoods to benefit
57 from such minerals.

58 (k) Metals derived from columbite-tantalite, cassiterite, wolframite, and gold from the
59 Democratic Republic of Congo are used in diverse technological products sold worldwide,
60 including mobile telephones, laptop computers, and digital video recorders.

61 (l) In February 2009, the Electronic Industry Citizenship Coalition and the Global e-
62 Sustainability Initiative released a statement asserting that use by the information
63 communications technology industry of mined commodities that support conflict
64 in such countries as the Democratic Republic of Congo is unacceptable and electronics
65 companies can and should uphold responsible practices in their operations and work with
66 suppliers to meet social and environmental standards with respect to the raw materials used in
67 the manufacture of their products.

68 (m) Notwithstanding the extensiveness of the supply chains of technological products and the
69 extensiveness of the processing stages for the metals derived from columbite-tantalite,
70 cassiterite, wolframite, and gold used in such products, companies that create and sell products
71 that include such metals have the ability to influence the situation in the Democratic Republic of
72 Congo by doing all of the following: exercising due diligence in ensuring that their suppliers
73 provide raw materials in a manner that does not directly finance armed conflict, result in labor or
74 human rights violations, or damage the environment; verifying the country from which the
75 minerals used to derive such metals originate, the identity of the exporter of the minerals, and

76 that all appropriate tax payments are made; and committing to support mineral exporters from
77 the Democratic Republic of Congo that fully disclose their export payments and certify that their
78 minerals do not directly finance armed conflict, result in labor or human rights violations, or
79 damage the environment.

80 (n) It is the sense of the Legislature that the exploitation and trade of conflict minerals
81 originating in the Democratic Republic of Congo is helping to finance conflict characterized by
82 extreme levels of violence in the eastern Democratic Republic of Congo, particularly sexual- and
83 gender-based violence, and contributing to an emergency humanitarian situation.

84 (o) The Dodd-Frank Wall Street Reform and Consumer Protection Act was signed into law by
85 President Barack Obama on July 21, 2010. This law requires those who file with the Securities
86 Exchange Commission and use minerals originating in the Democratic Republic of Congo in
87 manufacturing to disclose measures taken to exercise due diligence on the source and chain of
88 custody of the materials and the products manufactured.

89 SECTION 2.

90 (a) A scrutinized company is ineligible to, and shall not, bid on or submit a proposal for a
91 contract with a state agency for goods or services. (b) For purposes of this section, a "scrutinized
92 company" is a person that is required to disclose information relating to conflict minerals
93 originating in the Democratic Republic of the Congo, or its adjoining countries, pursuant to
94 Section 13(p) of the Securities and Exchange Act of 1934 where conflict minerals are necessary
95 to the functionality or production of a product manufactured by the person, where the person has
96 filed an "unreliable determination," as defined by Section 13(p) of the Securities and Exchange
97 Act of 1934, reported false information in their report whose requirements are described in

98 Section 13(p) of the Securities and Exchange Act of 1934, or failed to file a report as required by
99 Section 13(p) of the Securities and Exchange Act of 1934 and which the Securities and
100 Exchange Commission has, upon the completion of the commission's processes, determined that
101 a person has made a report that does not satisfy the requirements of due diligence described in
102 Section 13(p) of the Securities and Exchange Act of 1934.

103 SECTION 3. Section 2 of this bill shall become inoperative upon the disclosure requirements
104 termination date specified pursuant to Section 1502(b)(4) of Public Law 111-203.