

2023 -- S 0196

LC001502

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO HEALTH AND SAFETY -- COMPREHENSIVE PFAS BAN ACT OF 2023

Introduced By: Senators Kallman, DiMario, LaMountain, Euer, Miller, Pearson,  
McKenney, Ujifusa, Valverde, and Murray

Date Introduced: February 16, 2023

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 18.18

4 COMPREHENSIVE PFAS BAN ACT OF 2023

5 **23-18.18-1. Short title.**

6 This act shall be known and may be cited as the "Comprehensive PFAS Ban Act of 2023".

7 **23-18.18-2. Legislative intent.**

8 It is the intent of the legislature to ban all uses of PFAS by December 31, 2032, unless the  
9 use of PFAS in a product is considered unavoidable.

10 **23-18.18-3. Definitions.**

11 (a) For the purposes of this chapter, the following terms shall have the following  
12 definitions:

13 (1) "Adult mattress" means a mattress other than a crib mattress or toddler mattress.

14 (2) "Air care product" means a chemically formulated consumer product labeled to indicate  
15 that the purpose of the product is to enhance or condition the indoor environment by eliminating  
16 unpleasant odors or freshening the air.

17 (3) "Apparel" means any of the following:

18 (i) Clothing items intended for regular wear or formal occasions, including, but not limited  
19 to, undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear,

1 suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms,  
2 everyday swimwear, formal wear, onesies, bibs, diapers, footwear, and everyday uniforms for  
3 workwear. Clothing items intended for regular wear or formal occasions does not include personal  
4 protective equipment or clothing items for exclusive use by the United States military.

5 (ii) Outdoor apparel.

6 (iii) Outdoor apparel for severe wet conditions.

7 (4) "Artificial turf" means a man-made material which simulates the appearance of live  
8 turf, organic turf, grass, sod or lawn.

9 (5) "Automotive maintenance product" means a chemically formulated consumer product  
10 labeled to indicate that the purpose of the product is to maintain the appearance of a motor vehicle,  
11 including products for washing, waxing, polishing, cleaning, or treating the exterior or interior  
12 surfaces of motor vehicles. "Automotive maintenance product" does not include automotive paint  
13 or paint repair products.

14 (6) "Carpet or rug" means a fabric marketed or intended for use as a floor covering.

15 (7) "Cleaning product" means a finished product that is an air care product, automotive  
16 maintenance product, general cleaning product, or a polish or floor maintenance product used  
17 primarily for janitorial, domestic, or institutional cleaning purposes.

18 (8) "Cookware" means durable cookware items that are used in homes and restaurants to  
19 prepare, dispense, or store food, foodstuffs, or beverages. "Cookware" includes pots, pans, skillets,  
20 grills, baking sheets, baking molds, trays, bowls, and cooking utensils.

21 (9) "Cosmetic" means:

22 (i) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or  
23 otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting  
24 attractiveness, or altering the appearance; and

25 (ii) Articles intended for use as a component of any such article; except that such term shall  
26 not include soap.

27 (10) "Covered product" means any product subject to the requirements of this chapter to  
28 include, but not be limited to, the following:

29 (i) Artificial turf;

30 (ii) Cleaning products;

31 (iii) Carpets or rugs;

32 (iv) Cookware;

33 (v) Cosmetics;

34 (vi) Fabric treatments;

1 (vii) Juvenile products;

2 (viii) Menstrual products;

3 (ix) Ski wax; and

4 (x) Textile articles.

5 (11) "Department" means the department of environmental management.

6 (12) "Fabric treatment" means a substance applied to fabric to give the fabric one or more  
7 characteristics, including, but not limited to, stain resistance or water resistance.

8 (13) "General cleaning product" means a soap, detergent, or other chemically formulated  
9 consumer product labeled to indicate that the purpose of the product is to clean, disinfect, or  
10 otherwise care for fabric, dishes, or other wares; surfaces including, but not limited to, floors,  
11 furniture, countertops, showers, and baths; or other hard surfaces, such as stovetops, microwaves,  
12 and other appliances.

13 (14) "Intentionally added PFAS" means PFAS added to a product or one of its product  
14 components to provide a specific characteristic, appearance or quality or to perform a specific  
15 function. "Intentionally added PFAS" also includes any degradation byproducts of PFAS or PFAS  
16 that are intentional breakdown products of an added chemical. The use of PFAS as a processing  
17 agent, mold release agent or intermediate is considered intentional introduction for the purposes of  
18 this chapter where PFAS is detected in the final product.

19 (15) "Juvenile product" means a product designed for use by infants and children under  
20 twelve (12) years of age, including, but not limited to, a baby or toddler foam pillow, bassinet,  
21 bedside sleeper, booster seat, changing pad, child restraint system for use in motor vehicles and  
22 aircraft, co-sleeper, crib mattress, floor playmat, highchair, highchair pad, infant bouncer, infant  
23 carrier, infant seat, infant sleep positioner, infant swing, infant travel bed, infant walker, nap cot,  
24 nursing pad, nursing pillow, playmat, playpen, play yard, polyurethane foam mat, pad, or pillow,  
25 portable foam nap mat, portable infant sleeper, portable hook-on chair, soft-sided portable crib,  
26 stroller, and toddler mattress. "Juvenile product" does not include any of the following:

27 (i) A children's electronic product, including, but not limited to, a personal computer, audio  
28 and video equipment, calculator, wireless phone, game console, handheld device incorporating a  
29 video screen, or any associated peripheral such as a mouse, keyboard, power supply unit, or power  
30 cord;

31 (ii) A medical device; or

32 (iii) An adult mattress.

33 (16) "Manufacturer" means the person that manufactures a product or whose brand name  
34 is affixed to the product. In the case of a product imported into the United States, "manufacturer"

1 includes the importer or first domestic distributor of the product if the person that manufactured or  
2 assembled the product or whose brand name is affixed to the product does not have a presence in  
3 the United States.

4 (17) "Medical device" means any instrument, apparatus, implement, machine, appliance  
5 implant, reagent for in vitro use, software, material or other similar or related article, intended by  
6 the manufacturer to be used, alone or in a combination for a medical purpose.

7 (18) "Menstrual product" means a product used to collect menstruation and vaginal  
8 discharge, including, but not limited to, tampons, pads, sponges, menstruation underwear, disks,  
9 applicators, and menstrual cups, whether disposable or reusable.

10 (19) "Outdoor apparel" means clothing items intended primarily for outdoor activities,  
11 including, but not limited to, hiking, camping, skiing, climbing, bicycling, and fishing.

12 (20) "Outdoor apparel for severe wet conditions" means outdoor apparel that are extreme  
13 and extended use products designed for outdoor sports experts for applications that provide  
14 protection against extended exposure to extreme rain conditions or against extended immersion in  
15 water or wet conditions, such as from snow, in order to protect the health and safety of the user and  
16 that are not marketed for general consumer use. Examples of extreme and extended use products  
17 include outerwear for offshore fishing, offshore sailing, whitewater kayaking, and mountaineering.

18 (21) "Polish or floor maintenance product" means a chemically formulated consumer  
19 product, such as polish, wax, or a restorer, labeled to indicate that the purpose of the product is to  
20 polish, protect, buff, condition, temporarily seal, or maintain furniture, floors, metal, leather, or  
21 other surfaces.

22 (22) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means substances that  
23 include any member of the class of fluorinated organic chemicals containing at least one fully  
24 fluorinated carbon atom.

25 (23) "Personal protective equipment" means equipment worn to minimize exposure to  
26 hazards that cause serious workplace injuries and illnesses that may result from contact with  
27 chemical, radiological, physical, biological, electrical, mechanical, or other workplace or  
28 professional hazards.

29 (24) "Product" means an item manufactured, assembled, packaged or otherwise prepared  
30 for sale to consumers, including its product components, sold or distributed for personal,  
31 residential, commercial or industrial use, including for use in making other products. Product does  
32 not mean used products offered for sale or resale.

33 (25) "Product component" means an identifiable component of a product, regardless of  
34 whether the manufacturer of the product is the manufacturer of the component.

1 (26) "Ski wax" means a lubricant applied to the bottom of snow runners, including skis,  
2 snowboards, and toboggans, to improve their coefficient of friction performance.

3 (27) "Textile" means any item made in whole or part from a natural, manmade, or synthetic  
4 fiber, yarn, or fabric, and includes, but is not limited to, imitation leather, cotton, silk, jute, hemp,  
5 wool, viscose, nylon, or polyester. "Textile" does not include single-use paper hygiene products,  
6 including, but not limited to, toilet paper, paper towels or tissues, or single-use absorbent hygiene  
7 products.

8 (28) "Textile articles" means textile goods of a type customarily and ordinarily used in  
9 households and businesses, and include, but are not limited to, apparel, accessories, handbags,  
10 backpacks, draperies, shower curtains, furnishings, upholstery, beddings, towels, napkins, and  
11 tablecloths.

12 **23-18.18-4. Prohibition on use of PFAS.**

13 (a) Except as provided otherwise in this section, on and after January 1, 2025, no person  
14 shall manufacture, sell, or offer for sale in the state any covered product that contains intentionally  
15 added perfluoroalkyl and polyfluoroalkyl substances (PFAS).

16 (b) On and after January 1, 2025, no person shall manufacture, sell, or offer for sale in the  
17 state any new, outdoor apparel for severe wet conditions that contain intentionally added PFAS  
18 unless it is accompanied by a legible and easily discernible disclosure with the statement "Made  
19 with PFAS chemicals," including for online listings of products for sale.

20 (c) On and after January 1, 2028, no person shall manufacture, sell, or offer for sale in the  
21 state any new, outdoor apparel for severe wet conditions that contain intentionally added PFAS.

22 (d) On and after January 1, 2026, no person shall manufacture, sell, or offer for sale in the  
23 state cookware that contains intentionally added PFAS.

24 (e) A manufacturer of a covered product shall provide persons that offer the product for  
25 sale in the state with a certificate of compliance stating that the covered product is in compliance  
26 with the requirements of this chapter and does not contain any intentionally added PFAS. A  
27 certificate of compliance provided pursuant to this section shall be signed by an authorized official  
28 of the manufacturer. The certificate of compliance may be provided electronically.

29 (f) A distributor or retailer of a covered product, if they are not also the manufacturer of  
30 the product, shall not be held in violation of this chapter if they relied in good faith on the certificate  
31 of compliance provided by the manufacturer pursuant to subsection (e) of this section.

32 (g) This section shall not apply to the sale or resale of used products.

33 **23-18.18-5. Disclosure of PFAS in certain products.**

34 (a) For the purposes of this section, the term: "product" means an item manufactured,

1 assembled, packaged or otherwise prepared for sale to consumers, including its product  
2 components, sold or distributed for personal, residential, commercial or industrial use, including  
3 for use in making other products. For the purposes of this section, product does not mean:

4 (i) Used products offered for sale or resale.

5 (ii) A product regulated as a drug, medical device, or dietary supplement by the United  
6 States Food and Drug Administration.

7 (iii) Medical equipment or a product used in medical settings that is regulated by the United  
8 States Food and Drug Administration.

9 (iv) A product intended for animals that is regulated as animal drugs, biologics,  
10 parasiticides, medical devices, and diagnostics used to treat or are administered to animals under  
11 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.), the Federal Virus-Serum-  
12 Toxin Act (21 U.S.C. § 151 et seq.), or the Federal Insecticide, Fungicide, and Rodenticide Act (7  
13 U.S.C. § 136 et seq.).

14 (b) On or before January 1, 2026 and on or before January 1 of each year thereafter, a  
15 manufacturer of PFAS or a product or product component containing intentionally added PFAS  
16 that, during the prior calendar year, is sold, offered for sale, distributed, or offered for promotional  
17 purposes in, or imported into, the state shall register the PFAS or the product or product component  
18 containing intentionally added PFAS on a publicly accessible data collection interface, along with  
19 all of the following information, as applicable:

20 (1) The name and type of product or product component containing intentionally added  
21 PFAS.

22 (2) The universal product code, ("UPC") of the product or product component containing  
23 intentionally added PFAS.

24 (3) The purpose or function for which the intentionally added PFAS are used in the product  
25 or product component.

26 (4) The identity and amount of all PFAS compounds in the product or product component  
27 containing intentionally added PFAS, reported as follows:

28 (5) The identity shall be reported as follows:

29 (i) The specific name and the Chemical Abstracts Service Registry Number, also known as  
30 a "CAS Registry Number" or "CAS RN," of each PFAS compound, if both are known.

31 (ii) The specific name or the CAS RN if only one is known.

32 (iii) The brand name of the formulation that contains PFAS and the name of the formulation  
33 manufacturer, if neither the specific name nor CAS RN is known.

34 (6) The amount of PFAS shall be reported as follows:

- 1 (i) The amount or weight of each intentionally added PFAS compound, if known.
- 2 (ii) The total organic fluorine in the product or product component containing intentionally  
3 added PFAS, if the amount or weight of each intentionally added PFAS compound is not known;  
4 and
- 5 (iii) The amount of the product or the product component or the numbers of products or  
6 product components sold, delivered, or imported into the state in the prior calendar year.
- 7 (7) The name and address of the manufacturer, and the name, address, and phone number  
8 of a contact person for the manufacturer.
- 9 (c) The department may prioritize products subject to requirements under subsection (b) of  
10 this section based on the products that, in the department's judgment, are most likely to cause  
11 contamination of the state's land or water resources if they contain intentionally added PFAS.
- 12 (d) With the approval of the department, a manufacturer may supply the information  
13 required in this section for a category or type of product rather than for each individual product.
- 14 (e) In accordance with rules and regulations adopted by the department, a manufacturer  
15 shall update and revise the information in the written notification whenever there is significant  
16 change in the information.
- 17 (f) The department may waive all or part of the notification requirement in this section if  
18 the department determines that substantially equivalent information is already publicly available.  
19 The department may enter into an agreement with one or more other states or political subdivisions  
20 of a state to collect notifications and may accept notifications to a shared system as meeting the  
21 notification requirement under this section. The department may extend the deadline for submission  
22 by a manufacturer of the information required under this section if the department determines that  
23 more time is needed by the manufacturer to comply with the submission requirement.
- 24 (g) The department may establish by rule and regulation and assess a fee payable by a  
25 manufacturer upon submission of the notification required under subsection (b) of this section to  
26 cover the department's reasonable costs in developing rules administering the requirements in this  
27 section. The department may choose to set fees based upon the volume of PFAS, volume of sales  
28 or type of PFAS.

29 **23-18.18-6. Ban in firefighting foam.**

30 (a) For the purposes of this section, the following terms have the following definitions:

31 (1) "Class B firefighting foam" means foams designed for flammable liquid fires.

32 (2) "Firefighting personal protective equipment" means any clothing designed, intended,  
33 or marketed to be worn by firefighting personnel in the performance of their duties, designed with  
34 the intent for the use in fire and rescue activities, including jackets, pants, shoes, gloves, helmets,

1 and respiratory equipment.

2 (3) "Local governments" means any city, town, fire district, or other special purpose district  
3 that provides firefighting services.

4 (4) "Terminal" means an establishment primarily engaged in the wholesale distribution of  
5 crude petroleum and petroleum products, including liquefied petroleum gas from bulk liquid  
6 storage facilities.

7 (b) Beginning January 1, 2024, a person, local government, or state agency may not  
8 discharge or otherwise use for training purposes class B firefighting foam that contains intentionally  
9 added PFAS.

10 (c) Beginning January 1, 2024, a manufacturer of class B firefighting foam may not  
11 manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use or use in this  
12 state class B firefighting foam to which PFAS have been intentionally added.

13 (d) The restrictions in subsections (b) and (c) of this section do not apply to any  
14 manufacture, sale, or distribution of class B firefighting foam where the inclusion of PFAS are  
15 required by federal law, including, but not limited to, the requirements of 14 C.F.R. § 139.317, as  
16 that section existed as of January 1, 2022. In the event that applicable federal regulations change  
17 after January 1, 2022, to allow the use of alternative firefighting agents that do not contain PFAS,  
18 the restrictions set forth in subsection (b) of this section shall apply.

19 (1) A person that uses class B firefighting foam containing PFAS pursuant to subsection  
20 (d) of this section shall report the use of the foam to the state fire marshal within five (5) business  
21 days of the use, including the identity of the foam, the quantity used, the total PFAS concentration,  
22 the application for which the foam was used, and the duration of the fire.

23 (2) A person that uses class B firefighting foam containing PFAS pursuant to subsection  
24 (d) of this section shall do all of the following:

25 (i) Allow no release directly into the environment, such as into unsealed ground, soakage  
26 pits, waterways, or uncontrolled drains.

27 (ii) Fully contain all releases onsite.

28 (iii) Implement containment measures such as bunds and ponds that are controlled,  
29 impervious to PFAS, and do not allow firewater, wastewater, runoff, and other wastes to be released  
30 into the environment, such as into soils, groundwater, waterways, or stormwater.

31 (iv) Dispose of all firewater, wastewater, runoff, and other wastes in a way that prevents  
32 releases into the environment.

33 (v) If there is a release into the environment, report the identity of the foam, the quantity  
34 used, the total PFAS concentration, and the form of any waste that contains PFAS chemicals that



1 is released into the environment to the state fire marshal within five (5) business days of the release.

2 (vi) Document the measures undertaken pursuant to this subsection. In investigating  
3 compliance with this subsection, the attorney general, a city attorney, or a city or town solicitor,  
4 may request the documentation.

5 (e) A person operating a terminal after January 1, 2024, and who seeks to purchase class B  
6 firefighting foam containing intentionally added PFAS for the purpose of fighting emergency class  
7 B fires, may apply to the department for a temporary exemption from the restrictions on the  
8 manufacture, sale, offer for sale, or distribution of class B firefighting foam for use at a terminal.  
9 An exemption shall not exceed one year. The department of environmental management, in  
10 consultation with the department of health, may grant an exemption under this subsection if the  
11 applicant provides:

12 (1) Clear and convincing evidence that there is not a commercially available alternative  
13 that:

14 (i) Does not contain intentionally added PFAS; and  
15 (ii) Is capable of suppressing a large atmospheric tank fire or emergency class B fire at the  
16 terminal;

17 (2) Information on the amount of class B firefighting foam containing intentionally added  
18 PFAS that is annually stored, used, or released at the terminal;

19 (3) A report on the progress being made by the applicant to transition at the terminal to  
20 class B firefighting foam that does not contain intentionally added PFAS; and

21 (4) An explanation of how:

22 (i) All releases of class B firefighting foam containing intentionally added PFAS shall be  
23 fully contained at the terminal; and

24 (ii) Existing containment measures prevent firewater, wastewater, runoff, and other wastes  
25 from being released into the environment, including into soil, groundwater, waterways, and  
26 stormwater.

27 (f) Nothing in this section shall prohibit a terminal from providing class B firefighting foam  
28 in the form of aid to another terminal in the event of a class B fire.

29 (g) A manufacturer of class B firefighting foam restricted under subsection (c) of this  
30 section must notify, in writing, persons that sell the manufacturer's products in this state about the  
31 provisions of this chapter no less than one year prior to the effective date of the restrictions.

32 (h) A manufacturer that produces, sells, or distributes a class B firefighting foam prohibite d  
33 under subsection (c) of this section shall recall the product and reimburse the retailer or any other  
34 purchaser for the product by March 1, 2024 and shall reimburse the retailer or any other purchaser

1 for the product. A recall of the product shall include safe transport and storage and documentation  
2 of the amount and storage location of the PFAS-containing firefighting foam, until the department  
3 formally identifies a safe disposal technology. The manufacturer shall provide this documentation  
4 to the attorney general, or city or town solicitor upon request.

5 (i) The department may request a certificate of compliance from a manufacturer of class B  
6 firefighting foam, firefighting personal protective equipment sold in this state. A certificate of  
7 compliance attests that a manufacturer's product or products meets the requirements of this chapter.  
8 If the department requests such a certificate, the manufacturer shall provide the certificate within  
9 thirty (30) calendar days after the request is made.

10 (j) The department shall assist state agencies, fire protection districts, and other local  
11 governments to avoid purchasing or using class B firefighting foams to which PFAS have been  
12 intentionally added.

13 (k) A manufacturer of class B firefighting foam in violation of this chapter is subject to a  
14 civil penalty not to exceed five thousand dollars (\$5,000) for each violation in the case of a first  
15 offense. Manufacturers, local governments, or persons that are repeat violators are subject to a civil  
16 penalty not to exceed ten thousand dollars (\$10,000) for each repeat offense.

17 (l) Beginning January 1, 2024, a manufacturer or other person that sells firefighting  
18 personal protective equipment to any person, local government, or state agency must provide  
19 written notice to the purchaser at the time of sale if the firefighting personal protective equipment  
20 contains any PFAS. The written notice must include a statement that the firefighting personal  
21 protective equipment contains PFAS and the reason PFAS are added to the equipment.

22 (m) The department shall assist state agencies, fire protection districts, and other local  
23 governments to give priority and preference to the purchase of firefighting personal protective  
24 equipment that does not contain PFAS.

25 (n) The manufacturer or person selling firefighting personal protective equipment and the  
26 purchaser of the equipment must retain the notice on file for at least three (3) years from the date  
27 of the transaction. Upon the request of the department, a person, manufacturer, or purchaser must  
28 furnish the notice, or written copies, and associated sales documentation to the department within  
29 sixty (60) days.

30 **23-18.8-7. Rules and regulations.**

31 The department may promulgate rules and regulations to implement the provisions of this  
32 chapter.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- COMPREHENSIVE PFAS BAN ACT OF 2023

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1           This act would prohibit the use of perfluoroalkyl and polyfluoroalkyl substances or "PFAS"  
2 in various products, including but not limited to, carpets, rugs, cookware, cosmetics, firefighting  
3 foam and various other items. This act would also give authority to the department of  
4 environmental management to regulate the use of PFAS. The act would provide for some limited  
5 and/or temporary exemptions to these prohibitions.

6           This act would take effect upon passage.

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