

2024 -- H 7356 SUBSTITUTE A

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY
JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO HEALTH AND SAFETY -- CONSUMER PFAS BAN ACT OF 2024

Introduced By: Representatives Cortvriend, Speakman, Bennett, McGaw, Carson,
Kislak, Boylan, Spears, McEntee, and Fogarty
Date Introduced: January 31, 2024

Referred To: House Environment and Natural Resources

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 CONSUMER PFAS BAN ACT OF 2024

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

6 This chapter shall be known and may be cited as the "Consumer PFAS Ban Act of 2024".

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

8 It is the intent of the general assembly to ban uses of PFAS in covered products by January
9 1, 2029, unless the use of PFAS in the covered product is considered unavoidable.

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

11 As used in this chapter:

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

13 (2) "Apparel" means any of the following:

14 (i) Clothing items intended for regular wear or formal occasions, including, but not limited
15 to, undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear,
16 suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms,
17 everyday swimwear, formal wear, onesies, bibs, diapers, footwear, and everyday uniforms for
18 workwear. Clothing items intended for regular wear or formal occasions does not include personal
19 protective equipment or clothing items for exclusive use by the United States military; and

- 1 (ii) Outdoor apparel.
- 2 (3) "Artificial turf" means a man-made material which simulates the appearance of live
3 turf, organic turf, grass, sod or lawn.
- 4 (4) "Carpet" or "rug" means a consumer product made from natural or synthetic fabric
5 intended for use as a floor covering inside commercial or residential buildings. "Carpet or rug" does
6 not include:
- 7 (i) A carpet or rug intended solely for outdoor use;
- 8 (ii) A carpet or rug intended solely for use inside an aircraft, train, watercraft, automobile,
9 light duty truck, van, bus or any other vehicle and any aftermarket or replacement part marketed
10 solely for use in a vehicle;
- 11 (iii) A resilient floor covering;
- 12 (iv) Artificial turf;
- 13 (v) A wall hanging or covering;
- 14 (vi) A table mat; or
- 15 (v) A camping sleeping mat.
- 16 (5) "Cookware" means durable cookware items that are used in homes and restaurants to
17 prepare, dispense, or store food, foodstuffs, or beverages. "Cookware" includes pots, pans, skillets,
18 grills, baking sheets, baking molds, trays, bowls, and cooking utensils.
- 19 (6) "Cosmetic" means:
- 20 (i) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or
21 otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting
22 attractiveness, or altering the appearance; and
- 23 (ii) Articles intended for use as a component of any such article; except that such term shall
24 not include soap.
- 25 (7) "Covered product" means the following:
- 26 (i) Artificial turf;
- 27 (ii) Carpets or rugs;
- 28 (iii) Cookware;
- 29 (iv) Cosmetics;
- 30 (v) Fabric treatments;
- 31 (vi) Juvenile products;
- 32 (vii) Menstrual products;
- 33 (viii) Ski wax;
- 34 (ix) Textile articles.

1 (8) "Department" means the department of environmental management.

2 (9) "Director" means the director of the department of environmental management.

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

5 (11) "Ingredient" has the same meaning as defined 21 C.F.R Part 700 § 700.3(e) and does
6 not include any incidental ingredient as defined in 21 C.F.R. Part 701 § 701.3.

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

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

21 (i) A children's electronic product, including, but not limited to, a personal computer, audio
22 and video equipment, calculator, wireless phone, game console, handheld device incorporating a
23 video screen, or any associated peripheral such as a mouse, keyboard, power supply unit, power
24 cord, film, camera, audio, visual, or imaging equipment or sensors;

25 (ii) A medical device;

26 (iii) An adult mattress; or

27 (iv) Children's electronic products containing integrated circuits, semiconductor package,
28 or device that contains a semiconductor chip.

29 (14) "Manufacturer" means the person that manufactures a product or whose brand name
30 is affixed to the product. In the case of a product imported into the United States, "manufacturer"
31 includes the importer or first domestic distributor of the product if the person that manufactured or
32 assembled the product or whose brand name is affixed to the product does not have a presence in
33 the United States.

34 (15) "Medical device" has the same meaning as the term "device" as defined in 21 United

1 States Code 321(h).

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

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

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

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

16 (20) "Personal protective equipment" means equipment worn to minimize exposure to
17 hazards that cause serious workplace injuries and illnesses that may result from contact with
18 chemical, radiological, physical, biological, electrical, mechanical, or other workplace or
19 professional hazards.

20 (21) "Product" means an item manufactured, assembled, packaged or otherwise prepared
21 for sale to consumers, including its product components, sold or distributed for personal or
22 residential use, including for use in making other products. "Product" does not mean used products
23 offered for sale or resale.

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

26 (23) "Ski wax" means a lubricant applied to the bottom of snow runners, including, but not
27 limited to skis and snowboards to improve their grip or glide properties. "Ski wax" includes related
28 tuning products.

29 (24) "Textile" means any item made in whole or part from a natural, manmade, or synthetic
30 fiber, yarn, or fabric, and includes, but is not limited to, leather, cotton, silk, jute, hemp, wool,
31 viscose, nylon, or polyester. "Textile" does not include single-use paper hygiene products,
32 including, but not limited to, toilet paper, paper towels or tissues, or single-use absorbent hygiene
33 products.

34 (25) "Textile articles" means textile goods of a type customarily and ordinarily used in

1 households and businesses, and include, but are not limited to, apparel, accessories, handbags,
2 backpacks, draperies, shower curtains, furnishings, upholstery, beddings, towels, napkins, and
3 tablecloths. "Textile articles" does not include:

4 (i) A carpet or rug;

5 (ii) A treatment for use on covered textiles or leathers;

6 (iii) A textile used in or designed for laboratory analysis and testing;

7 (iv) A stadium shade or other architectural fabric structure; or

8 (v) Filtration or separation media processing equipment and plumbing, or a filter product
9 used in industrial applications, including but not limited to, chemical or pharmaceutical
10 manufacturing and environmental control technologies.

11 **23-18.18-4. Prohibition on use of PFAS.**

12 (a) Except as provided otherwise in this section, on and after January 1, 2027, no person
13 shall manufacture, sell, offer for sale or distribute for sale in the state any covered product that
14 contains intentionally added perfluoroalkyl and polyfluoroalkyl substances or PFAS.

15 (b) Except as provided otherwise in this section, on and after January 1, 2029, no person
16 shall manufacture sell, offer for sale, or distribute for sale in the state:

17 (1) Artificial turf containing intentionally added PFAS; or

18 (2) Outdoor apparel for severe wet conditions containing intentionally added PFAS, unless
19 it is accompanied by a legible, easily discernable disclosure that includes the following statement:
20 "Made with PFAS chemicals."

21 (c) If the department has reason to believe that a covered product contains intentionally
22 added PFAS and the covered product is being offered for sale in the state, the director may direct
23 the manufacturer of the product to, within thirty (30) days:

24 (1) Provide the director a certificate attesting that the covered product does not contain
25 intentionally added PFAS; or

26 (2) Notify persons who sell, offer for sale, or distribute for sale a covered product
27 prohibited under subsection (a) of this section, that the sale of that covered product is prohibited in
28 this state and provide the director with a list of the names and addresses of those notified.

29 (d) The director may notify persons who sell or offer for sale a product prohibited under
30 subsection (a) of this section, that the sale of that product is prohibited in this state.

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

32 **23-18.18-5. Ban in firefighting foam.**

33 (a) For the purposes of this section, the following terms shall have the following meanings:

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

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

5 (3) "Local government" means any county, city, town, fire district, regional fire protection
6 authority, or other special purpose district that provides firefighting services.

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

10 (b) Beginning January 1, 2025, a person, local government, or state agency may not
11 discharge or otherwise use for training purposes class B firefighting foam that contains intentionally
12 added PFAS chemicals.

13 (c) Beginning January 1, 2025, a manufacturer of class B firefighting foam may not
14 manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use or use in this
15 state class B firefighting foam to which PFAS have been intentionally added.

16 (d) The restrictions in subsections (b) and (c) of this section do not apply to any
17 manufacture, sale, or distribution of class B firefighting foam where the inclusion of PFAS
18 chemicals are required by federal law, including, but not limited to, the requirements of 14 C.F.R.
19 139.317, as that section existed as of January 1, 2022. In the event that applicable federal
20 regulations change after January 1, 2022, to allow the use of alternative firefighting agents that do
21 not contain PFAS chemicals, the restrictions set forth in subsection (b) of this section shall apply.

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

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

28 (i) Allow no release directly to the environment, such as to unsealed ground, soakage pits,
29 waterways, or uncontrolled drains;

30 (ii) Fully contain all releases onsite;

31 (iii) Implement containment measures such as bunds and ponds that are controlled,
32 impervious to PFAS, and do not allow firewater, wastewater, runoff, and other wastes to be released
33 to the environment, such as to soils, groundwater, waterways, or stormwater;

34 (iv) Dispose of all firewater, wastewater, runoff, and other wastes in a way that prevents

1 releases to the environment:

2 (v) If there is a release to the environment, report the identity of the foam, the quantity
3 used, the total PFAS concentration, and the form of any waste that contains PFAS chemicals that
4 is released into the environment to the state fire marshal within five (5) business days of the release;

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

8 (e) A person operating a terminal after January 1, 2025, and who seeks to purchase class B
9 firefighting foam containing intentionally added PFAS for the purpose of fighting emergency class
10 B fires, may apply to the department for a temporary exemption from the restrictions on the
11 manufacture, sale, offer for sale, or distribution of class B firefighting foam for use at a terminal.
12 An exemption shall not exceed one year. The department of environmental management, in
13 consultation with the department of health, may grant an exemption under this subsection if the
14 applicant provides:

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

17 (i) Does not contain intentionally added PFAS; and

18 (ii) Is capable of suppressing a large atmospheric tank fire or emergency class B fire at the
19 terminal;

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

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

24 (4) An explanation of how:

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

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

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

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

1 (h) A manufacturer that produces, sells, or distributes a class B firefighting foam prohibited
2 under subsection (c) of this section shall recall the product and reimburse the retailer or any other
3 purchaser for the product by March 1, 2025 and shall reimburse the retailer or any other purchaser
4 for the product. A recall of the product shall include safe transport and storage and documentation
5 of the amount and storage location of the PFAS-containing firefighting foam, until the department
6 formally identifies a safe disposal technology. The manufacturer shall provide this documentation
7 to the attorney general, or city or town solicitor upon request.

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

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

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

20 (l) Beginning January 1, 2025, a manufacturer or other person that sells firefighting
21 personal protective equipment to any person, local government, or state agency must provide
22 written notice to the purchaser at the time of sale if the firefighting personal protective equipment
23 contains any PFAS. The written notice must include a statement that the firefighting personal
24 protective equipment contains PFAS chemicals and the reason PFAS chemicals are added to the
25 equipment.

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

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

34 **23-18.18-6. Rules and regulations.**

1 The department of environmental management may promulgate rules and regulations to
2 implement the provisions of this chapter.

3 **23-18.18-7. Violations.**

4 Effective January 1, 2027, a violation of any of the provisions of this law or any rule or
5 regulation promulgated pursuant thereto shall be punishable, in the case of a first violation, by a
6 civil penalty not to exceed one thousand dollars (\$1,000). In the case of a second and any further
7 violations, the liability shall be for a civil penalty not to exceed five thousand dollars (\$5,000) for
8 each violation.

9 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 -- CONSUMER PFAS BAN ACT OF 2024

1 This act would enact the Consumer PFAS Ban Act of 2024, prohibiting the intentional
2 addition of perfluoroalkyl and polyfluoroalkyl substances (PFAS) in covered products offered for
3 sale or manufactured in the state as of January 1, 2027. The department of environmental
4 management would be responsible to regulate the prohibition. This act would further ban the sale
5 of Class B firefighting foam that contains intentionally added PFAS chemicals.

6 This act would take effect upon passage.

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