

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1965 Session of
2021

INTRODUCED BY HOWARD, HANBIDGE, HERRIN, SANCHEZ, BURGOS, VITALI,
DeLUCA AND O'MARA, OCTOBER 8, 2021

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
OCTOBER 8, 2021

AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated
2 Statutes, in food protection, further providing for penalties
3 and prohibiting certain food packaging.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 5725(b) of Title 3 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 5725. Penalties.

9 * * *

10 (b) Civil penalties.--

11 (1) In addition to proceeding under any other remedy
12 available at law or in equity for a violation of this
13 subchapter, or a rule or regulation adopted or any order
14 issued under this subchapter, the secretary may assess a
15 civil penalty not to exceed \$10,000 upon an individual or
16 business for each offense.

17 (2) No civil penalty shall be assessed for a violation
18 of this subchapter unless the person charged has been given

notice and opportunity for a hearing in accordance with law.
In determining the amount of the penalty, the secretary shall consider the gravity of the violation. Whenever the secretary finds a violation which did not cause harm to human health, the secretary may issue a warning in lieu of assessing a penalty. In case of inability to collect the civil penalty or failure of any person to pay all or any portion of the penalty as the secretary may determine, the secretary may refer the matter to the Attorney General, who shall recover the amount by action in the appropriate court.

* * *

Section 2. Title 3 is amended by adding a section to read:

§ 5731.1. Prohibited food packaging.

(a) PFAS substances packaging.--Beginning July 1, 2022, no person shall distribute, sell or offer for sale in this Commonwealth food packaging containing perfluoroalkyl or polyfluoroalkyl substances present in any amount.

(b) Penalty.--

(1) In addition to proceeding under any other remedy available at law or in equity for a violation of this subchapter, or a rule or regulation adopted or any order issued under this subchapter, the secretary may assess:

(i) A civil penalty not to exceed \$5,000 upon an individual or business for a first offense under this section.

(ii) A civil penalty not to exceed \$10,000 upon an individual or business for a second or subsequent offense under this section.

(2) The provisions of section 5725(b)(1) (relating to penalties) shall not apply to a violation of this section.

1 (c) Deposit of civil penalties.--Penalties collected under
2 this section shall be deposited into the Hazardous Sites Cleanup
3 Fund established in section 901 of the act of October 18, 1988
4 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act.

5 (d) Rulemaking.--The secretary, in consultation with the
6 Department of Environmental Protection, shall enforce this
7 section as well as promulgate regulations that are necessary.

8 (e) Definitions.--As used in this section, the following
9 words and phrases shall have the meanings given to them in this
10 subsection unless the context clearly indicates otherwise:

11 "Food packaging." A container or component that is intended
12 for direct food contact.

13 "Perfluoroalkyl and polyfluoroalkyl substances." All members
14 of the class of fluorinated organic chemicals containing at
15 least one fully fluorinated carbon atom.

16 Section 3. This act shall take effect immediately.