
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2238 Session of
2024

INTRODUCED BY SCOTT, STEELE, KHAN, SANCHEZ, KINSEY, MIHALEK,
PROBST, PIELLI, SHUSTERMAN, CERRATO, CONKLIN, VITALI,
D. WILLIAMS, CIRESI, FLEMING, DALEY AND GREEN, APRIL 29, 2024

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
APRIL 29, 2024

AN ACT

1 Amending Title 12 (Commerce and Trade) of the Pennsylvania
2 Consolidated Statutes, providing for consumer protection and
3 prohibiting the use of perfluoroalkyl and polyfluoroalkyl
4 substances in certain products; imposing powers and duties on
5 the Department of Environmental Protection; and imposing
6 penalties.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 12 of the Pennsylvania Consolidated
10 Statutes is amended by adding a part to read:

11 PART VI

12 CONSUMER PROTECTION

13 Chapter

14 71. PFAS Chemicals

15 CHAPTER 71

16 PFAS CHEMICALS

17 Subchapter

18 A. General Provisions

19 B. Administration and Enforcement

1 (2) The term includes a product for washing, waxing,
2 polishing, cleaning or treating the exterior or interior
3 surface of a motor vehicle.

4 (3) The term does not include an automotive paint or
5 paint repair product.

6 "Carpet or rug." A fabric marketed or intended for use as a
7 floor covering.

8 "Cleaning product." Any of the following finished products
9 used primarily for a janitorial, domestic or institutional
10 cleaning purpose:

11 (1) An air care product.

12 (2) An automotive maintenance product.

13 (3) A general cleaning product.

14 (4) A polish or floor maintenance product.

15 "Cookware." As follows:

16 (1) A durable cookware item that is used in a home or
17 restaurant to prepare, dispense or store food, foodstuffs or
18 a beverage.

19 (2) The term includes a pot, pan, skillet, grill, baking
20 sheet, baking mold, tray, bowl or cooking utensil.

21 "Cosmetic." As defined in section 2 of the act of April 14,
22 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,
23 Device and Cosmetic Act.

24 "Covered product." Any of the following:

25 (1) Artificial turf.

26 (2) A cleaning product.

27 (3) A carpet or rug.

28 (4) Cookware.

29 (5) A cosmetic.

30 (6) Dental floss.

- 1 (7) A fabric treatment.
- 2 (8) Food packaging.
- 3 (9) A juvenile product.
- 4 (10) A menstrual product.
- 5 (11) An oil and gas product.
- 6 (12) Ski wax.
- 7 (13) A textile article.

8 "Credible source." A report or publication that has been:

- 9 (1) scientifically peer-reviewed;
- 10 (2) published in a report of the National Academy of
- 11 Sciences, the National Academy of Engineering or the National
- 12 Academy of Medicine; or
- 13 (3) published in a report by an international, Federal
- 14 or state agency or body that implements laws governing
- 15 chemicals.

16 "Currently unavoidable use." The use of a PFAS chemical for
17 which the department has determined all of the following:

- 18 (1) A safer alternative to the PFAS chemical is not
- 19 available.
- 20 (2) The function of the PFAS chemical is necessary for
- 21 the product to work.
- 22 (3) The use of the PFAS chemical in the product is
- 23 critical for health, safety or the functioning of society.

24 "Dental floss." A waxed or unwaxed thread used to remove food
25 particles and plaque from between the teeth and under the gums.

26 "Department." The Department of Environmental Protection of
27 the Commonwealth.

28 "Fabric treatment." A substance that is applied to a fabric
29 to give the fabric one or more characteristics, including stain
30 resistance or water resistance.

1 "Food packaging." A package or packaging component that is
2 intended for direct food contact.

3 "General cleaning product." A soap, detergent or other
4 chemically formulated consumer product labeled to indicate that
5 the purpose of the product is to clean, disinfect or otherwise
6 care for:

7 (1) fabric, dishes or other wares;

8 (2) surfaces, including floors, furniture, countertops,
9 showers or baths; or

10 (3) other hard surfaces, including stovetops, microwaves
11 or other appliances.

12 "Independent source." A source of information that does not
13 have a perceived or actual financial conflict of interest.

14 "Intentionally added PFAS chemical." Any of the following:

15 (1) A PFAS chemical that is added to a product, or a
16 component of a product, and has a functional or technical
17 effect on the product. The term includes the components of a
18 PFAS chemical and a PFAS chemical that is the intentional
19 product of an added chemical.

20 (2) A PFAS chemical that is used or produced during the
21 manufacture or processing of a product and introduced into or
22 onto the product. The term includes any source of a PFAS
23 chemical that is reasonably known to be present, including
24 the use of a processing agent, a mold release agent or
25 fluorination.

26 "Interface." The publicly accessible data collection
27 interface established by the department under section 7112(a)
28 (relating to disclosure of PFAS chemical information).

29 "Juvenile product." As follows:

30 (1) A product that is designed for use by an infant or

1 child under 12 years of age.

2 (2) The term includes a baby or toddler foam pillow,
3 bassinet, bedside sleeper, booster seat, changing pad, child
4 restraint system for use in a motor vehicle or aircraft, co-
5 sleeper, crib mattress, floor playmat, highchair, highchair
6 pad, infant bouncer, infant carrier, infant seat, infant
7 sleep positioner, infant swing, infant travel bed, infant
8 walker, nap cot, nursing pad, nursing pillow, playmat,
9 playpen, play yard, polyurethane foam mat, pad or pillow,
10 portable foam nap mat, portable infant sleeper, portable
11 hook-on chair, soft-sided portable crib, stroller or toddler
12 mattress.

13 (3) The term does not include:

14 (i) An electronic product of a child, including a
15 personal computer, audio and video equipment, calculator,
16 wireless phone, game console, handheld device
17 incorporating a video screen or any associated peripheral
18 such as a mouse, keyboard, power supply unit or power
19 cord.

20 (ii) A medical device.

21 (iii) An adult mattress.

22 "Manufacturer." As follows:

23 (1) A person that manufactures a product or whose brand
24 name is affixed to a product.

25 (2) In the case of a product imported into the United
26 States, the term includes the importer or first domestic
27 distributor of the product if the person that manufactured or
28 assembled the product or whose brand name is affixed to the
29 product does not have a presence in the United States.

30 "Medical device." As the term "device" is defined in 21

1 U.S.C. § 321(h) (relating to definitions; generally).

2 "Menstrual product." As follows:

3 (1) A product that is used to collect menstruation and
4 vaginal discharge.

5 (2) The term includes a tampon, pad, sponge,
6 menstruation underwear, disk or menstrual cup, whether
7 disposable or reusable.

8 "Motor vehicle." As defined in 75 Pa.C.S. § 102 (relating to
9 definitions).

10 "Oil and gas operations." Exploration for oil and gas,
11 including any of the following:

12 (1) The conduct of seismic operations and the drilling
13 of test bores.

14 (2) The siting, drilling, deepening, recompletion,
15 reworking or abandonment of an oil and gas well, underground
16 injection well or gas storage well.

17 (3) Production operations related to a well described in
18 paragraph (2), including the installation of flow lines and
19 gathering systems.

20 (4) The generation, transportation, storage, treatment
21 or disposal of exploration and production wastes.

22 (5) Construction, site preparation or reclamation
23 activities associated with operations described under this
24 definition.

25 "Oil and gas product." Hydraulic fracturing fluid, drilling
26 fluid or proppant.

27 "Outdoor apparel." An apparel product that is intended
28 primarily for outdoor activities, including hiking, camping,
29 skiing, climbing, bicycling or fishing.

30 "Outdoor apparel for severe wet conditions." As follows:

1 (1) Outdoor apparel that is an extreme and extended-use
2 product designed for an outdoor sports expert for an
3 application that provides protection against extended
4 exposure to extreme rain conditions or extended immersion in
5 water or wet conditions, such as from snow, to protect the
6 health and safety of the user and that is not marketed for
7 general consumer use.

8 (2) The term includes outerwear for offshore fishing,
9 offshore sailing, whitewater kayaking or mountaineering.

10 "Package." As follows:

11 (1) A container providing a means of marketing,
12 protecting or handling a product.

13 (2) The term includes:

14 (i) A unit package, intermediate package or shipping
15 container.

16 (ii) An unsealed receptacle, including a carrying
17 case, crate, cup, pail, rigid foil or other tray, wrapper
18 or wrapping film, bag or tub.

19 "Packaging component." Any of the following:

20 (1) An individual assembled part of a package, including
21 an interior or exterior blocking, bracing, cushioning,
22 weatherproofing, exterior strapping, coating, closure, ink or
23 label.

24 (2) Disposable gloves used in commercial or
25 institutional food service.

26 "Personal protective equipment." Equipment that is worn to
27 minimize exposure to a hazard that may cause a serious workplace
28 injury or illness resulting from contact with a chemical,
29 radiological, physical, biological, electrical, mechanical or
30 other workplace or professional hazard.

1 "PFAS chemical." A substance that contains any member of the
2 class of fluorinated organic chemicals containing at least one
3 fully fluorinated carbon atom, including perfluoroalkyl and
4 polyfluoroalkyl substances.

5 "Polish or floor maintenance product." A chemically
6 formulated consumer product, such as a polish, wax or restorer,
7 that is labeled to indicate that the purpose of the product is
8 to polish, protect, buff, condition, temporarily seal or
9 maintain furniture, floors, metal, leather or other surfaces.

10 "Product." As follows:

11 (1) An item that is manufactured, assembled, packaged or
12 otherwise prepared for sale to consumers, including the
13 item's product components, sold or distributed for personal,
14 residential, commercial or industrial use, including for use
15 in making other products.

16 (2) The term does not include:

17 (i) A used product that is offered for sale or
18 resale.

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

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

25 (iv) A product intended for animals that is
26 regulated as an animal drug, biologic, parasiticide,
27 medical device or diagnostic used to treat or
28 administered to animals under any of the following:

29 (A) The Federal Food, Drug, and Cosmetic Act (52
30 Stat. 1040, 21 U.S.C. § 301 et seq.).

1 (B) The Federal Virus-Serum-Toxin Act (37 Stat.
2 832, 21 U.S.C. § 151 et seq.).

3 (C) The Federal Insecticide, Fungicide, and
4 Rodenticide Act (61 Stat. 163, 7 U.S.C. § 136 et
5 seq.).

6 "Product component." An identifiable component of a product,
7 regardless of whether the manufacturer of the product is the
8 manufacturer of the component.

9 "Proppant." A material that is inserted or injected into an
10 underground geologic formation during oil and gas operations to
11 prevent a fracture from closing.

12 "Safer alternative." As follows:

13 (1) An alternative that is less hazardous to humans or
14 the environment than a PFAS chemical.

15 (2) The term includes any of the following:

16 (i) A chemical substitute or change in materials,
17 function or design that eliminates the need for a PFAS
18 chemical.

19 (ii) A material, process, design, product or
20 chemical that eliminates the need for a PFAS chemical.

21 (3) The term does not include a PFAS chemical.

22 "Ski wax." As follows:

23 (1) A lubricant that is applied to the bottom of a snow
24 runner, ski or snowboard to improve its grip or glide
25 property.

26 (2) The term includes a related tuning product.

27 "Textile." As follows:

28 (1) An item that is made in whole or in part from a
29 natural, manmade or synthetic fiber, yarn or fabric.

30 (2) The term includes leather, cotton, silk, jute, hemp,

1 wool, viscose, nylon or polyester.

2 "Textile article." As follows:

3 (1) A textile good of a type customarily and ordinarily
4 used in a household or business.

5 (2) The term includes an apparel, accessory, handbag,
6 backpack, drapery, shower curtain, furnishing, upholstery,
7 bedding, towel, napkin or tablecloth.

8 SUBCHAPTER B

9 ADMINISTRATION AND ENFORCEMENT

10 Sec.

11 7111. Prohibition of PFAS chemicals for covered products.

12 7112. Disclosure of PFAS chemical information.

13 7113. Enforcement of disclosure requirement.

14 7114. Currently unavoidable use.

15 7115. Penalties.

16 7116. Rules and regulations.

17 § 7111. Prohibition of PFAS chemicals for covered products.

18 (a) Covered products generally.--Subject to subsection (b),
19 beginning January 1, 2027, a person may not manufacture, sell or
20 offer for sale in this Commonwealth, a covered product that
21 contains an intentionally added PFAS chemical.

22 (b) Outdoor apparel for severe wet conditions.--

23 (1) Beginning January 1, 2027, and ending December 31,
24 2028, a person may not manufacture, sell or offer for sale in
25 this Commonwealth, or provide an online listing of products
26 for sale for, a new outdoor apparel for severe wet conditions
27 that contains an intentionally added PFAS chemical unless the
28 new outdoor apparel for severe wet conditions is accompanied
29 by a legible and easily discernible disclosure with the
30 statement "Made with PFAS chemicals."

1 (2) Beginning January 1, 2029, a person may not
2 manufacture, sell or offer for sale in this Commonwealth a
3 new outdoor apparel for severe wet conditions that contains
4 an intentionally added PFAS chemical.

5 (c) Certificate of compliance.--

6 (1) A manufacturer of a covered product shall provide
7 persons who offer the covered product for sale in this
8 Commonwealth with a certificate of compliance stating that
9 the covered product is in compliance with the requirements of
10 this chapter and does not contain any intentionally added
11 PFAS chemical.

12 (2) A certificate of compliance under this subsection:

13 (i) Shall be signed by an authorized official of the
14 manufacturer.

15 (ii) May be provided electronically.

16 (3) A distributor or retailer of a covered product, if
17 not also the manufacturer of the covered product, shall not
18 be held in violation of this chapter if the distributor or
19 retailer relied in good faith on the certificate of
20 compliance provided by the manufacturer under this
21 subsection.

22 (d) Other products.--In addition to a covered product that
23 contains an intentionally added PFAS chemical, the department
24 may by rule or regulation prohibit the distribution, sale or
25 offer for sale of any other product that contains an
26 intentionally added PFAS chemical.

27 (e) Applicability.--This section shall not apply to the sale
28 or resale of a used product.

29 § 7112. Disclosure of PFAS chemical information.

30 (a) Establishment of interface.--The department shall

1 establish a publicly accessible data collection interface to
2 administer this section.

3 (b) Registration requirement.--No later than January 1,
4 2026, and each January 1 thereafter, the manufacturer of a PFAS
5 chemical or a product or product component containing an
6 intentionally added PFAS chemical that, during the prior
7 calendar year, is sold, offered for sale, distributed or offered
8 for promotional purposes in, or imported into, this Commonwealth
9 shall register the PFAS chemical or the product or product
10 component containing the intentionally added PFAS chemical on
11 the interface, in the form and manner prescribed by the
12 department.

13 (c) Registration information.--As part of the registration
14 under subsection (b), the manufacturer shall provide the
15 following information, as applicable:

16 (1) The name and type of product or product component
17 containing the intentionally added PFAS chemical.

18 (2) The universal product code (UPC) of the product or
19 product component containing the intentionally added PFAS
20 chemical.

21 (3) The purpose or function for which the intentionally
22 added PFAS chemical is used in the product or product
23 component.

24 (4) The identity of all PFAS chemical compounds in the
25 product or product component containing the intentionally
26 added PFAS chemical, reported as follows:

27 (i) The specific name and the Chemical Abstracts
28 Service Registry Number (CAS RN) of each PFAS chemical
29 compound, if both are known.

30 (ii) The specific name or the CAS RN, if only one is

1 known.

2 (iii) The brand name of the formulation that
3 contains the PFAS chemical and the name of the
4 formulation manufacturer, if neither the specific name
5 nor CAS RN is known.

6 (5) The amount of all PFAS chemical compounds in the
7 product or product component containing the intentionally
8 added PFAS chemical, reported as follows:

9 (i) The amount or weight of each intentionally added
10 PFAS chemical compound, if known. The department may
11 specify reporting ranges in order to meet this
12 requirement.

13 (ii) The total organic fluorine in the product or
14 product component containing the intentionally added PFAS
15 chemical, if the amount or weight of each intentionally
16 added PFAS chemical compound is not known.

17 (iii) The amount of the product or product component
18 or the number of products or product components sold,
19 delivered or imported into this Commonwealth in the prior
20 calendar year.

21 (6) The name and address of the manufacturer.

22 (7) The name, address and telephone number of a contact
23 person for the manufacturer.

24 (d) Prioritization.--The department may prioritize the
25 registrations required under this section, based on the PFAS
26 chemicals, products or product components that, in the judgment
27 of the department, are most likely to cause contamination of the
28 land or water resources of this Commonwealth if they contain
29 intentionally added PFAS chemicals.

30 (e) Information by category or type.--With the approval of

1 the department, a manufacturer may supply the information
2 required under this section for a category or type of product
3 rather than for each individual product.

4 (f) Update and revision.--A manufacturer shall update and
5 revise the information required under this section when there is
6 a significant change in the information, in the form and manner
7 prescribed by the department.

8 (g) Waiver.--The department may waive all or part of the
9 requirements under this section if the department determines
10 that substantially equivalent information is already publicly
11 available.

12 (h) Other agreements.--The department may satisfy the
13 notification requirements under this section by entering into an
14 agreement with one or more other states or political
15 subdivisions of a state to collect notifications and accept
16 notifications to a shared system.

17 (i) Extension.--The department may extend the deadline for
18 submittal by a manufacturer of the information required under
19 this section if the department determines that more time is
20 needed by the manufacturer for compliance.

21 (j) Fees.--

22 (1) The department may establish by rule and assess a
23 fee payable by a manufacturer upon submittal of a
24 registration under this section to cover the reasonable costs
25 incurred by the department in administering this section.

26 (2) The department may choose to set fees under
27 paragraph (1) based on the volume of the PFAS chemical,
28 volume of sales or type of the PFAS chemical.

29 § 7113. Enforcement of disclosure requirement.

30 (a) Prohibition.--A person may not distribute, sell or offer

1 for sale in this Commonwealth a product that contains an
2 intentionally added PFAS chemical if the manufacturer has failed
3 to comply with the requirements of section 7112 (relating to
4 disclosure of PFAS chemical information).

5 (b) Actions.--If the department has reason to believe that a
6 product contains an intentionally added PFAS chemical and is
7 being distributed, sold or offered for sale in violation of this
8 section, the department may direct the manufacturer of the
9 product to, within 30 days of the discovery:

10 (1) provide the department with a statement attesting
11 that the product does not contain an intentionally added PFAS
12 chemical; or

13 (2) notify persons that sell the product in this
14 Commonwealth that the sale of the product is prohibited in
15 this Commonwealth and provide the department with a list of
16 the names and addresses of those persons notified.

17 § 7114. Currently unavoidable use.

18 (a) Prohibition.--Except as provided in section 7116(b)
19 (relating to rules and regulations), beginning January 1, 2033,
20 a person may not sell, offer for sale or distribute for sale in
21 this Commonwealth a product that contains an intentionally added
22 PFAS chemical, unless the department has determined that the use
23 of the intentionally added PFAS chemical in the product is a
24 currently unavoidable use.

25 (b) Specification.--The department may specify products or
26 product categories for which the department has determined the
27 use of a PFAS chemical is a currently unavoidable use. The
28 department shall transmit a list of the products or product
29 categories to the Legislative Reference Bureau for publication
30 in the next available issue of the Pennsylvania Bulletin.

1 (c) Petition.--

2 (1) Except as provided in paragraph (2), the
3 manufacturer of a product may petition the department for a
4 determination regarding whether the use of a PFAS chemical in
5 the product is a currently unavoidable use.

6 (2) The manufacturer of a specified product category
7 described under section 7111(a) or (b) (relating to
8 prohibition of PFAS chemicals for covered products) may not
9 submit a petition under this subsection.

10 (3) A petition under this subsection must provide the
11 following:

12 (i) Evidence from an independent source that
13 demonstrates the absence of an alternative.

14 (ii) Evidence that the function of the PFAS chemical
15 is necessary for the product to work.

16 (iii) Evidence that the use of the PFAS chemical in
17 the product is critical for the health, safety or
18 functioning of society.

19 (iv) Any additional information requested by the
20 department to assist in making the determination.

21 (d) Considerations.--In making a determination under
22 subsection (c) (1), the department may:

23 (i) In addition to the information specified under
24 subsection (c) (3), consider other credible sources of
25 information.

26 (ii) Consider prohibitions on the sale and use of
27 the PFAS chemical in the product or product category in
28 another state or country.

29 (iii) Make the determination in relation to a
30 category of PFAS chemical use or a type of product rather

1 than for each individual use or product.

2 (e) Expiration.--A determination under subsection (c)(1) in
3 relation to a product, or category of PFAS chemical use or type
4 of product, expires five years after issuance.

5 (f) Renewal.--A manufacturer may seek a renewal of the
6 determination under subsection (c)(1). The manufacturer in its
7 petition for renewal must provide the information specified
8 under subsection (c)(3) and provide evidence of efforts to
9 develop a safer alternative.

10 (g) Review.--The department may review a determination under
11 this section before its expiration if there is a significant
12 change in relation to the information provided under subsection
13 (c)(3).

14 (h) Notice.--The department shall maintain a list of the
15 products and uses that are exempt from the prohibition on
16 distribution, sale or offer of sale because of the determination
17 of currently unavoidable use. The department shall post the list
18 on its publicly accessible Internet website.

19 § 7115. Penalties.

20 A violation of this chapter constitutes unfair methods of
21 competition and unfair or deceptive acts or practices within the
22 meaning of section 2(4) of the act of December 17, 1968
23 (P.L.1224, No.387), known as the Unfair Trade Practices and
24 Consumer Protection Law, and shall be subject to the enforcement
25 provisions, civil penalties and private rights of action
26 contained in that act.

27 § 7116. Rules and regulations.

28 (a) Authorization.--The department shall adopt or promulgate
29 rules or regulations necessary to implement, administer and
30 enforce the provisions of this chapter.

1 (b) Currently unavoidable use.--The department may establish
2 by regulation an effective date for the prohibition of a PFAS
3 chemical in a product or product category that is before the
4 date specified under section 7114(a) (relating to currently
5 unavoidable use), if it is feasible to do so. The following
6 apply:

7 (1) The department shall consider public petitions that
8 request an earlier effective date.

9 (2) Feasibility shall be deemed to exist if any of the
10 following conditions are met:

11 (i) A safer alternative to the PFAS chemical in the
12 product or product category is reasonably available, as
13 determined by the department.

14 (ii) The findings of all or part of an applicable
15 publicly available study or evaluation of alternatives,
16 based on reliable information, show the viability of a
17 safer alternative to the PFAS chemical in the product or
18 product category.

19 (iii) The sale or use of the PFAS chemical in the
20 product or product category has already been banned in
21 another state or country.

22 Section 2. This act shall take effect immediately.