

2024 -- H 7356

LC004096

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

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

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

6 This chapter shall be known and may be cited as the "Comprehensive PFAS Ban Act of
7 2024".

8 **23-18.18-2. Legislative intent.**

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

11 **23-18.18-3. Definitions.**

12 As used in this chapter:

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

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

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

1 protective equipment or clothing items for exclusive use by the United States military;

2 (ii) Outdoor apparel, including outdoor apparel for extreme wet conditions.

3 (3) "Artificial turf" means a man-made material which simulates the appearance of live

4 turf, organic turf, grass, sod or lawn.

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

6 (5) "Cookware" means durable cookware items that are used in homes and restaurants to

7 prepare, dispense, or store food, foodstuffs, or beverages. "Cookware" includes pots, pans, skillets,

8 grills, baking sheets, baking molds, trays, bowls, and cooking utensils.

9 (6) "Cosmetic" means:

10 (i) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or

11 otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting

12 attractiveness, or altering the appearance; and

13 (ii) Articles intended for use as a component of any such article; except that such term shall

14 not include soap.

15 (7) "Covered product" means any product subject to the requirements of this chapter to

16 include, but not be limited to, the following:

17 (i) Artificial turf;

18 (ii) Carpets or rugs;

19 (iii) Cookware;

20 (iv) Cosmetics;

21 (v) Fabric treatments;

22 (vi) Juvenile products;

23 (vii) Menstrual product;

24 (viii) Ski wax;

25 (ix) Textile articles.

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

27 (9) "Director" means the director of the department of health.

28 (10) "Fabric treatment" means a substance applied to fabric to give the fabric one or more

29 characteristics, including, but not limited to, stain resistance or water resistance.

30 (11) "Ingredient" has the same meaning as defined 21 C.F.R Part 700 § 700.3(e) and does

31 not include any incidental ingredient as defined in 21 C.F.R. Part 701 § 701.3.

32 (12) "Intentionally added PFAS" means PFAS added to a product or one of its product

33 components to provide a specific characteristic, appearance or quality or to perform a specific

34 function. "Intentionally added PFAS" also includes any degradation byproducts of PFAS or PFAS

1 that are intentional breakdown products of an added chemical. The use of PFAS as a processing
2 agent, mold release agent or intermediate is considered intentional introduction for the purposes of
3 this chapter where PFAS is detected in the final product.

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

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

16 (ii) A medical device;

17 (iii) An adult mattress.

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

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

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

29 (17) "Outdoor apparel" means clothing items intended primarily for outdoor activities,
30 including, but not limited to, hiking, camping, skiing, climbing, bicycling, and fishing. "Outdoor
31 apparel" includes apparel that are extreme and extended use products designed for outdoor sports
32 experts for applications that provide protection against extended exposure to extreme rain
33 conditions or against extended immersion in water or wet conditions, such as from snow, in order
34 to protect the health and safety of the user and that are not marketed for general consumer use.

1 Examples of extreme and extended use products include outerwear for offshore fishing, offshore
2 sailing, whitewater kayaking, and mountaineering.

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

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

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

14 (21) "Product component" means an identifiable component of a product, regardless of
15 whether the manufacturer of the product is the manufacturer of the component.

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

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

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

27 **23-18.18-4. Prohibition on use of PFAS.**

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

31 (b) If the department has reason to believe that a product contains intentionally added PFAS
32 and the product is being offered for sale in the state, the director may direct the manufacturer of the
33 product to, within thirty (30) days, provide the department with testing results that demonstrate the
34 amount of each of the PFAS, identified by its chemical abstracts service registry number, in the

1 product, reported as an exact quantity determined using commercially available analytical methods
2 or as falling within a range approved for reporting purposes by the department.

3 (c) If testing demonstrates that the product does not contain intentionally added PFAS, the
4 manufacturer must provide the director a certificate attesting that the product does not contain
5 intentionally added PFAS, including testing results and any other relevant information.

6 (d) If testing demonstrates that the product contains intentionally added PFAS, the
7 manufacturer must provide the director with the testing results.

8 (e) A manufacturer must notify persons who sell or offer for sale a product prohibited under
9 subsection (a) of this section, that the sale of that product is prohibited in this state and provide the
10 director with a list of the names and addresses of those notified.

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

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

14 **23-18.18-5. Disclosure of PFAS in certain products.**

15 (a) For the purposes of this section, the term: "product" means an item manufactured,
16 assembled, packaged or otherwise prepared for sale to consumers, including its product
17 components, sold or distributed for personal, residential, commercial or industrial use, including
18 for use in making other products. For the purposes of this section, "product" does not mean:

19 (1) Used products offered for sale or resale;

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

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

24 (4) A product intended for animals that is regulated as animal drugs, biologics,
25 parasiticides, medical devices, and diagnostics used to treat or are administered to animals under
26 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.), the federal Virus-Serum-Toxin
27 Act (21 U.S.C. § 151-159 et seq.), or the Federal Insecticide, Fungicide, and Rodenticide Act (7
28 U.S.C. § 136 et seq.).

29 (b) On or before January 1, 2028, and on or before January 1 of each year thereafter, a
30 manufacturer of PFAS or a product or product component containing intentionally added PFAS
31 that, during the prior calendar year, is sold, offered for sale, distributed, or offered for promotional
32 purposes in, or imported into, the state shall register the PFAS or the product or product component
33 containing intentionally added PFAS on a publicly accessible data collection interface, along with
34 all of the following information, as applicable:

1 (1) The name and type of product or product component containing intentionally added
2 PFAS;

3 (2) The universal product code, or "UPC," of the product or product component containing
4 intentionally added PFAS;

5 (3) The purpose or function for which the intentionally added PFAS are used in the product
6 or product component;

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

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

11 (ii) The specific name or the CAS RN if only one is known;

12 (iii) The brand name of the formulation that contains PFAS and the name of the formulation
13 manufacturer, if neither the specific name nor CAS RN is known;

14 (5) The amount of PFAS shall be reported as follows:

15 (i) The amount or weight of each intentionally added PFAS compound, if known;

16 (ii) The total organic fluorine in the product or product component containing intentionall
17 added PFAS, if the amount or weight of each intentionally added PFAs compound is not known;
18 and

19 (iii) The amount of the product or the product component or the numbers of products or
20 product components sold, delivered, or imported into the state in the prior calendar year;

21 (6) The name and address of the manufacturer, and the name, address, and phone number
22 of a contact person for the manufacturer.

23 (c) The department may prioritize products subject to requirements under subsection (b) of
24 this section, based on the products that, in the department's judgment, are most likely to cause
25 contamination of the state's land or water resources if they contain intentionally added PFAS.

26 (d) With the approval of the department, a manufacturer may supply the information
27 required in this section for a category or type of product rather than for each individual product.

28 (e) In accordance with rules and regulations adopted by the department, a manufacturer
29 shall update and revise the information in the written notification whenever there is significant
30 change in the information.

31 (f) The department may waive all or part of the notification requirement in this section if
32 the department determines that substantially equivalent information is already publicly available.
33 The department may enter into an agreement with one or more other states or political subdivisions
34 of a state to collect notifications and may accept notifications to a shared system as meeting the

1 notification requirement under this section. The department may extend the deadline for submission
2 by a manufacturer of the information required under this section if the department determines that
3 more time is needed by the manufacturer to comply with the submission requirement.

4 (g) The department may establish by rule and regulation and assess a fee payable by a
5 manufacturer upon submission of the notification required under subsection (b) of this section, to
6 cover the department's reasonable costs in developing rules administering the requirements in this
7 section. The department may choose to set fees based upon the volume of PFAS, volume of sales
8 or type of PFAS.

9 **23-18.18-6. Ban in firefighting foam.**

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

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

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

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

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

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

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

27 (d) The restrictions in subsections (b) and (c) of this section do not apply to any
28 manufacture, sale, or distribution of class B firefighting foam where the inclusion of PFAS
29 chemicals are required by federal law, including, but not limited to, the requirements of 14 C.F.R.
30 139.317, as that section existed as of January 1, 2022. In the event that applicable federal
31 regulations change after January 1, 2022, to allow the use of alternative firefighting agents that do
32 not contain PFAS chemicals, the restrictions set forth in subsection (b) of this section shall apply.

33 (1) A person that uses class B firefighting foam containing PFAS chemicals pursuant to
34 subsection (d) of this section shall report the use of the foam to the state fire marshal within five

1 (5) business days of the use, including the identity of the foam, the quantity used, the total PFAS
2 concentration, the application for which the foam was used, and the duration of the fire.

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

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

7 (ii) Fully contain all releases onsite;

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

11 (iv) Dispose of all firewater, wastewater, runoff, and other wastes in a way that prevents
12 releases to the environment;

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

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

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

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

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

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

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

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

1 (4) An explanation of how:

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

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

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

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

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

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

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

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

31 (l) Beginning January 1, 2025, a manufacturer or other person that sells firefighting
32 personal protective equipment to any person, local government, or state agency must provide
33 written notice to the purchaser at the time of sale if the firefighting personal protective equipment
34 contains any PFAS. The written notice must include a statement that the firefighting personal

1 protective equipment contains PFAS chemicals and the reason PFAS chemicals are added to the
2 equipment.

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

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

11 **23-18.18-7. Rules and regulations.**

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

14 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 2024

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

6 This act would take effect upon passage.

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