|  |  |  |
| --- | --- | --- |
| General Assembly |  | ***Raised Bill No. 292***  |
| ***February Session, 2024*** |  | LCO No. **2248** |
|  | \*02248\_\_\_\_\_\_\_ENV\* |
| Referred to Committee on ENVIRONMENT  |  |
| Introduced by: |  |
| (ENV) |  |

AN ACT CONCERNING THE USE OF PFAS IN CERTAIN PRODUCTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2024*)(a) For purposes of this section:

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

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

(3) "Apparel" means any of the following: (A) Clothing items intended for daily wear or formal occasions, including, but not limited to, undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms, swimwear, formal wear, onesies, bibs, diapers, footwear, accessories, handbags, backpacks and uniforms for workwear. "Apparel" does not include personal protective equipment or clothing items for exclusive use by the United States military; (B) outdoor apparel; or (C) outdoor apparel intended for severe wet conditions.

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

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

(6) "Children's product" means a product designed or marketed for use by infants and children under twelve years of age, including, but not limited to, a baby or toddler foam pillow, bassinet, bedside sleeper, booster seat, changing pad, child restraint system for use in motor vehicles and aircraft, co-sleeper, crib mattress, highchair, highchair pad, infant bouncer, infant carrier, infant seat, infant sleep positioner, infant swing, infant travel bed, infant walker, nap cot, nursing pad, nursing pillow, play mat, playpen, play yard, polyurethane foam mat, pad or pillow, portable foam nap mat, portable infant sleeper, portable hook-on chair, soft-sided portable crib, stroller or toddler mattress. "Children's product" does not include any children's electronic product such as a personal computer, audio and video equipment, calculator, wireless phone, game console, handheld device incorporating a video screen or any associated peripheral such as a mouse, keyboard, power supply unit or power cord or an adult mattress.

(7) "Cleaning product" means a finished product used primarily for domestic, commercial or institutional cleaning purposes, including, but not limited to, an air care product, an automotive maintenance product, a general cleaning product or a polish or floor maintenance product.

(8) "Commissioner" means the Commissioner of Energy and Environmental Protection.

(9) "Cookware" means durable houseware items used to prepare, dispense or store food, foodstuffs or beverages, including, but not limited to, pots, pans, skillets, grills, baking sheets, baking molds, trays, bowls and cooking utensils.

(10) "Cosmetic" means articles, excluding soap, that are intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body or any part thereof for the purpose of cleansing, beautifying, promoting attractiveness or altering the appearance of, and any item intended for use as a component of any such article.

(11) "Currently unavoidable use" means a use of PFAS that the commissioner determines by regulation adopted pursuant to subsection (d) of this section to be essential for health, safety or the functioning of society and for which an alternative is not reasonably available.

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

(13) "Intentionally added" means PFAS deliberately added during the manufacture of a product where the continued presence of PFAS is desired in the final product or one of the product's components to perform a specific function.

(14) "Manufacturer" means the person that creates or produces a product or whose brand name is affixed to the product and for any product imported into the United States, the manufacturer includes the importer or first domestic distributor of the product if the person that manufactured or assembled the product or whose brand name is affixed to the product does not have a presence in the United States.

(15) "Medical device" has the same meaning as "device", as provided in 21 USC 321(h).

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

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

(18) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

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

(20) "Product" means any item manufactured, assembled, packaged or otherwise prepared for sale to consumers, including, but not limited to, its product components, sold or distributed for personal, residential, commercial or industrial use, including for use in making other products.

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

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

(23) "Textile" means any item made, in whole or in part, from a natural or synthetic fiber, yarn or fabric, including, but not limited to, leather, cotton, silk, jute, hemp, wool, viscose, nylon or polyester.

(24) "Textile furnishings" means textile goods of a type customarily used in households and businesses, including, but not limited to, draperies, floor coverings, furnishings, bedding, shower curtains, towels and tablecloths.

(25) "Upholstered furniture" means an article of furniture that is designed to be used for sitting, resting or reclining and that is wholly or partly stuffed or filled with any filling material.

(b) (1) On or before January 1, 2027, each manufacturer of a product sold, offered for sale or distributed in this state that contains intentionally added PFAS shall submit to the Commissioner of Energy and Environmental Protection information that includes: (A) A brief description of the product, including a universal product code, stock-keeping unit or other numeric code assigned to such product; (B) the purpose for which PFAS is used in the product, including in any product component; (C) the amount of each PFAS, identified by its chemical abstracts service registry number, in the product, reported as an exact quantity determined using commercially available analytical methods or as falling within a range approved for reporting purposes by the commissioner; (D) the name and address of such manufacturer and the name, address and phone number of a contact person for the manufacturer; and (E) any additional information requested by the commissioner as necessary to implement the requirements of this section.

(2) With the approval of the commissioner, a manufacturer may supply the information required in subdivision (1) of this subsection for a category or type of product rather than for each individual product.

(3) A manufacturer shall submit the information required in subdivision (1) of this subsection whenever a new product that contains intentionally added PFAS is sold, offered for sale or distributed in this state by the manufacturer and such manufacturer shall update and revise such information whenever there is significant change in such information or when requested to do so by the commissioner.

(4) No person may sell, offer for sale or distribute for sale in this state any product that contains intentionally added PFAS if the manufacturer failed to provide the information required in subdivision (1) of this subsection and such person receives notification of such prohibition from the commissioner in accordance with subsection (d) of this section.

(c) (1) Notwithstanding the provisions of subsection (b) of this section, the commissioner may waive all or part of the information requirements of subsection (b) of this section if the commissioner determines that substantially equivalent information is already publicly available. The commissioner may grant a waiver under this subdivision to a manufacturer or a group of manufacturers for multiple products or a product category.

(2) For a pesticide regulated under chapter 441 of the general statutes, a fertilizer regulated under chapter 427a of the general statutes, an agricultural liming material or a soil amendment regulated under chapter 427b of the general statutes, a manufacturer may satisfy the requirements of subsection (b) of this section by submitting the information required by such subsection as part of the manufacturer's annual registration or approval process under chapter 441, 427a or 427b of the general statutes, as applicable. For information that is regulated under chapter 441, 427a or 427b of the general statutes, as applicable, the commissioner and the Commissioner of Agriculture shall jointly determine whether to make the information publicly available based on such applicable statutes.

(3) Notwithstanding the provisions of subsection (b) of this section, the Commissioner of Energy and Environmental Protection may enter into an agreement with one or more other states or political subdivisions of a state to collect information and may accept information to such a shared system as meeting the information requirement in subsection (b) of this section.

(4) Notwithstanding the provisions of subsection (b) of this section, the Commissioner of Energy and Environmental Protection may extend the deadline for submission by a manufacturer of the information required in subsection (b) of this section if said commissioner determines that more time is needed by the manufacturer to comply with such submission requirement.

(d) (1) Whenever the commissioner has reason to believe that a product contains intentionally added PFAS and the product is being offered for sale in this state, the commissioner may direct the manufacturer of the product to, not later than thirty days after receipt of notice from the commissioner, provide the commissioner with testing results that demonstrate the amount of PFAS, identified by each of its chemical abstracts service registry numbers, that are in the product, reported as an exact quantity determined using commercially available analytical methods or as falling within a range approved for reporting purposes by the commissioner.

(2) If such testing demonstrates that the product does not contain intentionally added PFAS, the manufacturer shall provide the commissioner a certificate attesting that the product does not contain intentionally added PFAS, including such testing results and any other relevant information.

(3) If testing demonstrates that the product contains intentionally added PFAS, the manufacturer shall provide the commissioner with the testing results and the information required in subsection (b) of this section.

(4) Each manufacturer shall notify any person who sells, or offers for sale a product prohibited under subdivision (4) of subsection (b) of this section or subsection (e) of this section that the sale of such product is prohibited in this state and such manufacturer shall provide the Commissioner of Energy and Environmental Protection with a list of the names and addresses of any person notified pursuant to this subdivision.

(5) The commissioner may notify persons who sell or offer for sale a product prohibited under subdivision (4) of subsection (b) of this section or subsection (e) of this section that the sale of such product is prohibited in this state.

(e) (1) On and after January 1, 2026, no person shall sell, offer for sale or distribute for sale in this state any of the following products if the product contains intentionally added PFAS: (1) Apparel; (2) carpets or rugs; (3) cleaning products; (4) cookware; (5) cosmetics; (6) dental floss; (7) fabric treatments; (8) children's products; (9) menstruation products; (10) textile furnishings; (11) ski wax; or (12) upholstered furniture.

(2) On and after January 1, 2032, no person may sell, offer for sale or distribute for sale in this state any product that contains intentionally added PFAS, unless the Commissioner of Energy and Environmental Protection determines, by regulations adopted in accordance with the provisions of chapter 54 of the general statutes, that the use of PFAS in such product is a currently unavoidable use, provided the commissioner may not determine that the use of PFAS in a product is a currently unavoidable use if the product is listed in subdivision (1) of this subsection.

(3) In adopting regulations pursuant to subdivision (2) of this subsection, the commissioner may specify specific products or product categories for which the commissioner finds that the use of PFAS is a currently unavoidable use.

(4) The Commissioner of Energy and Environmental Protection may not take action under subdivision (2) or (3) of this subsection for any pesticide that is regulated under chapter 441 of the general statutes, a fertilizer regulated under chapter 427a of the general statutes or an agricultural liming material or a soil amendment regulated under chapter 427b of the general statutes, unless the Commissioner of Agriculture approves such action.

(f) The Commissioner of Energy and Environmental Protection may adopt regulations, in accordance with chapter 54 of the general statutes, to establish a fee payable by each manufacturer to the commissioner upon submission of the information required in subsection (b) of this section to cover the Department of Energy and Environmental Protection's reasonable costs to implement the provisions of this section.

(g) (1) The Commissioner of Energy and Environmental Protection may enforce the provisions of this section pursuant to section 22a-6 of the general statutes. The Commissioner of Energy and Environmental Protection may coordinate with the Commissioners of Agriculture, Consumer Protection and Public Health in enforcing this section.

(2) When requested by the Commissioner of Energy and Environmental Protection, any person shall furnish to the commissioner any information that the person may have or may reasonably obtain that is relevant to show compliance with the provisions of this section.

(h) (1) The provisions of this section shall not be construed to apply to: (A) Any product for which federal law governs the presence of PFAS in the product in a manner that preempts state authority; (B) any product regulated under section 22a-903a or 22a-255i of the general statutes; or (C) the sale or resale of a used product.

(2) The provisions of subsections (d) and (e) of this section shall not be construed to apply to any prosthetic or orthotic device or to any product that is a medical device or drug or that is otherwise used in a medical setting or in medical applications regulated by the United States Food and Drug Administration.

(3) Notwithstanding any other provision of this section, the provisions of subsections (d) and (e) of this section shall not be construed to apply to outdoor apparel for severe wet conditions until January 1, 2028, provided on and after January 1, 2026, no person shall distribute, sell or offer for sale in this state any new or not-previously-used outdoor apparel for severe wet conditions that contains PFAS unless such product is accompanied by a legible and easily discernable disclosure with the statement "Made with PFAS chemicals", including for any online listing of such products for sale.

Sec. 2. Section 22a-903b of the 2024 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

There is established an account to be known as the PFAS Testing account which shall be a separate, nonlapsing account within the General Fund. Moneys in such account shall be used by the Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Public Health, to provide municipalities, as defined in section 7-381, and school districts with grants or reimbursements to test for the presence of PFAS contamination in drinking water supplies and to remediate any such contamination. Such account shall contain all moneys required by law to be deposited in such account. Such account may receive funds from private or public sources, including, but not limited to, the federal government. For the purposes of this section, "PFAS" has the same meaning as provided in section 22a-255h.

|  |
| --- |
| This act shall take effect as follows and shall amend the following sections: |
| Section 1 | *October 1, 2024* | New section |
| Sec. 2 | *from passage* | 22a-903b |

***Statement of Purpose:***

To prohibit the use of PFAS in certain products.

***[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]***