

Reduction in Consumer Product Forever Chemicals

Draft by Clyde Wilber

Do not Cite or Quote

Not reviewed/approved by EQAC

**Not intended as advocacy *to* the GA or any other *entity*
unless approved by the Fairfax Board of
Supervisors**

July 23, 2025

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LEGISLATIVE INITIATIVE

(We intend to use what is submitted in this form to draft an item for consideration to present to the Legislative Committee; however, submissions will be edited, and additional background or other relevant information will be included in any item to be considered by the Legislative Committee)

GENERAL SUBJECT AREA – Reduction in Consumer Product Forever Chemicals :

Phase out of nonessential PFAS (Forever) chemicals added to consumer products that threaten public health.

PROPOSAL: Support legislation that phases out the sale of forever chemicals in consumer products where possible.

SOURCE: Environmental Quality Advisory Council (EQAC)

BACKGROUND:

PFAS is found everywhere now, our air, our bodies and our water. PFAS has been detected in our sources of drinking water and these chemicals increase the risk of a wide range of health problems including kidney and thyroid disease, testicular cancer, and impaired fetal development.

Fairfax Water and others are working on the costly investments needed to make our drinking water safe. However, the best way to get PFAS out of our drinking water and out of the environment is to stop them at our source. Drinking water represents a small portion of these chemicals that Fairfax residents ingest. The source of these chemicals in our drinking water is from industrial discharges and personal consumer products. Fairfax Water can address exposure from drinking water at considerable cost. Unless unnecessary PFAS in everyday consumer products are addressed, most of the health risks will remain. These chemicals may be found in consumer products designed to be water-resistant, stain-resistant, or non-stick. This includes items like nonstick cookware, food packaging (like pizza boxes and popcorn bags), and various water-resistant textiles. Additionally, PFAS are frequently used in personal care products, cleaning products, and even some electronics. Health risks to Fairfax residents will remain high even if Fairfax Water spends millions of dollars to extract PFAS chemicals from our drinking water.

Last session, the General Assembly passed legislation last session to help address industrial discharges. Now it is time to mandate phase out these health-impairing chemicals in consumer products. Other states have already done this with laws that set reasonable schedules to transition from health damaging PFAS to safer products. The Commonwealth should act in the next session to protect our health.

It should be noted that the reduction of forever chemicals is not unlike the phase out of lead in gasoline and paint or the phase out of refrigerants that were destroying the ozone layer. Companies adjusted over time and ultimately made significant profit on the new products. Both these phase outs were great successes in protecting the environment and human health.

STAFF RECOMMENDATION:

(Do not fill out-- This will be indicated by the Legislative Director and County Executive)

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LEGISLATIVE INITIATIVE INFORMATION SHEET

(Supplemental background information to be used by staff)

PROPOSED NEW OR REVISED STATUTORY LANGUAGE:

*(Indicate actual wording change to Va. Code; use Code citation and please indicate whether you have had the **County Attorney's office review** the proposed new or revised statutory language; specific Code language can be copied from the web by typing the specific Section number at: <http://law.lis.virginia.gov/vacode>)*

Attached are the 2024 Minnesota and the Maine PFAS laws that may be used as a basis for GA Assembly discussion. Both these examples focus on protecting children.

ADDITIONAL BACKGROUND INFORMATION:

Water supplied by Fairfax Water to southern Fairfax County and Prince William County exceed the allowable Maximum Contaminant Level (MCL) for a range of Forever Chemicals.

PFAS has also been detected at elevated levels in County wastewater indicating that Fairfax residents are exposed to forever chemicals from consumer products and possibly from industrial sources such as firefighting foams.

In addition, studies conducted by Fairfax County Public Works and Environmental Services indicate that County streams have high levels of PFAS. Some of these high-level detections may be due to industrial activity addressed in the most recently passed Commonwealth legislation.

RELATED FEDERAL OR STATE STATUTES OR REGULATIONS, OR ANY PERTINENT COURT DECISIONS OR LEGAL OPINIONS:

The federal regulations set standards for MCL in drinking water. No specific federal action addresses consumer products which are the principal exposure pathway for Fairfax residents. The Commonwealth has passed statutes regulating industrial discharges that impact Fairfax's drinking water. However, no Commonwealth statute addresses consumer products at this time.

The Minnesota law has been challenged based on the interstate commerce clause, however, to date the Minnesota courts have rejected this argument.

The Maine law has been modified to address challenges based on ambiguities in requirements and definitions. The impact on transitioning packaging materials is expected to be significant, although there are alternatives to using forever chemicals.

A Maine wastewater treatment plant found PFAS in its effluent and biosolids and is now suing PFAS manufacturers to cover the costs of remediation, including potential costs for removing PFAS from wastewater and disposing of contaminated sludge.

ALIGNMENT TO ONE FAIRFAX GOALS:

The reduction of forever chemicals aligns with the goal of protecting the health of Fairfax residents. It also has the potential to reduce the cost of addressing the high level of forever chemicals in our drinking water.

ANY APPROPRIATE ANALYSES, FINANCIAL ESTIMATES, STATISTICS:

The cost for Fairfax Water to meet the USEPA MCLs for safe drinking water has been estimated at up to half a billion dollars.

The cost to companies currently adding forever chemicals to their products will depend on the specific product and the time allowed to come into compliance. Company costs will be substantial and multifaceted, requiring significant changes in product design, sourcing, and compliance procedures

PROS/CONS OF THE ISSUE:

It has been estimated that that approximately 80 percent of PFAS in our bodies is from consumer products. While the bans under consideration do not eliminate PFAS, the larger share of PFAS health impacts can be addressed.

This legislation will protect the health of Fairfax County citizens. It is being done at the Commonwealth level because the Federal government has dropped the ball. It would be a clear win for Fairfax residents if the proposed legislation were passed in protecting public health and potentially reducing the costs to the Fairfax Water Authority to extract PFAS from our drinking water.

One objection to doing this on the state level is that consumer product manufacturers would have to meet multiple state standards for the use of PFAS in their products. However, Maine and Minnesota, among many other states, have created consumer product PFAS legislation, already setting precedents so that Virginia can build on and reinforce their example. Many other States, Canada, and the European Union are in the process of passing bans.

There will be small costs and inconvenience to consumers as these products are phased out. Most of the cost increases are expected to be small. For example, moving from PFAS back to wax (which was previously used) in dental floss is not expected to be a significant cost to consumers. Pizza boxes without PFAS might show grease stains but not put their consumers at health risk.

The packaging industry will need to revert to packaging that does not include added PFAS.

The Textile industry will be significantly impacted. However, the costs to remove PFAS from water-proofing textiles are already a cost of doing business because multiple states have already banned its use in textiles,

POSSIBLE SUPPORT OR OPPOSITION BY ORGANIZATIONS:

(List any organizations or groups, if any, which might be in favor of or against the proposed legislative change)

Need to check with each before listing

STAFF CONTACT PERSON(S):

(Provide name and phone number of County staff person(s) best able to assist in any further necessary research or best able to provide "expert testimony" at a General Assembly committee meeting, if deemed necessary by County legislative staff)

Ask EQAC Staff

Example Existing State Statutes

Minnesota

Maine

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MINNESOTA STATUTES 2024

116.943 PRODUCTS CONTAINING PFAS.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

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

(c) "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.

(d) "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 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.

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

(f) "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.

(g) "Commissioner" means the commissioner of the Pollution Control Agency.

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

(i) "Cosmetic" means articles, excluding soap:

(1) 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; and

(2) intended for use as a component of any such article.

(j) "Currently unavoidable use" means a use of PFAS that the commissioner has determined by rule under this section to be essential for health, safety, or the functioning of society and for which alternatives are not reasonably available.

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

(l) "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.

(m) "Juvenile product" means a product designed or marketed for use by infants and children under 12 years of age:

(1) 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

Official Publication of the State of Minnesota
Revisor of Statutes

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mat, pad, or pillow; portable foam nap mat; portable infant sleeper; portable hook-on chair; soft-sided portable crib; stroller; and toddler mattress; and

(2) not including a 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.

(n) "Manufacturer" means the person that creates or produces a product or whose brand name is affixed to the product. In the case of a product imported into the United States, 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.

(o) "Medical device" has the meaning given "device" under United States Code, title 21, section 321, subsection (h).

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

(q) "Product" means an 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.

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

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

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

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

(v) "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.

Subd. 2. Information required. (a) On or before January 1, 2026, a manufacturer of a product sold, offered for sale, or distributed in the state that contains intentionally added PFAS must submit to the commissioner information that includes:

(1) a brief description of the product, including a universal product code (UPC), stock keeping unit (SKU), or other numeric code assigned to the product;

(2) the purpose for which PFAS are used in the product, including in any product components;

(3) 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;

(4) the name and address of the manufacturer and the name, address, and phone number of a contact person for the manufacturer; and

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(5) any additional information requested by the commissioner as necessary to implement the requirements of this section.

(b) With the approval of the commissioner, a manufacturer may supply the information required in paragraph (a) for a category or type of product rather than for each individual product.

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

(d) A person may not sell, offer for sale, or distribute for sale in the state a product containing intentionally added PFAS if the manufacturer has failed to provide the information required under this subdivision and the person has received notification under subdivision 4.

Subd. 3. Information requirement waivers; extensions. (a) The commissioner may waive all or part of the information requirement under subdivision 2 if the commissioner determines that substantially equivalent information is already publicly available. The commissioner may grant a waiver under this paragraph to a manufacturer or a group of manufacturers for multiple products or a product category.

(b) For a pesticide regulated under chapter 18B, a fertilizer, an agricultural liming material, a plant amendment, or a soil amendment regulated under chapter 18C, a manufacturer may satisfy the requirements of subdivision 2 by submitting the information required by that subdivision as part of its annual registration or approval process under chapter 18B or 18C. For information that is regulated under chapters 18B and 18C, the commissioner and the commissioner of agriculture must jointly determine whether to make the information publicly available based on applicable statutes.

(c) The commissioner 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 a shared system as meeting the information requirement under subdivision 2.

(d) The commissioner may extend the deadline for submission by a manufacturer of the information required under subdivision 2 if the commissioner determines that more time is needed by the manufacturer to comply with the submission requirement.

Subd. 4. Testing required and certificate of compliance. (a) If the commissioner has reason to believe that a product contains intentionally added PFAS and the product is being offered for sale in the state, the commissioner may direct the manufacturer of the product to, within 30 days, provide the commissioner with testing results that demonstrate the amount of each of the 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.

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

(c) If testing demonstrates that the product contains intentionally added PFAS, the manufacturer must provide the commissioner with the testing results and the information required under subdivision 2.

(d) A manufacturer must notify persons who sell or offer for sale a product prohibited under subdivision 2 or 5 that the sale of that product is prohibited in this state and provide the commissioner with a list of the names and addresses of those notified.

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(e) The commissioner may notify persons who sell or offer for sale a product prohibited under subdivision 2 or 5 that the sale of that product is prohibited in this state.

Subd. 5. **Prohibitions.** (a) Beginning January 1, 2025, a person may not sell, offer for sale, or distribute for sale in this state the following products if the product contains intentionally added PFAS:

- (1) carpets or rugs;
- (2) cleaning products;
- (3) cookware;
- (4) cosmetics;
- (5) dental floss;
- (6) fabric treatments;
- (7) juvenile products;
- (8) menstruation products;
- (9) textile furnishings;
- (10) ski wax; or
- (11) upholstered furniture.

(b) The commissioner may by rule identify additional products by category or use that may not be sold, offered for sale, or distributed for sale in this state if they contain intentionally added PFAS and designate effective dates. A prohibition adopted under this paragraph must be effective no earlier than January 1, 2025, and no later than January 1, 2032. The commissioner must prioritize the prohibition of the sale of product categories that, in the commissioner's judgment, are most likely to contaminate or harm the state's environment and natural resources if they contain intentionally added PFAS.

(c) Beginning January 1, 2032, a person may not sell, offer for sale, or distribute for sale in this state any product that contains intentionally added PFAS, unless the commissioner has determined by rule that the use of PFAS in the product is a currently unavoidable use. The commissioner may specify specific products or product categories for which the commissioner has determined the use of PFAS is a currently unavoidable use. The commissioner may not determine that the use of PFAS in a product is a currently unavoidable use if the product is listed in paragraph (a).

(d) The commissioner may not take action under paragraph (b) or (c) with respect to a pesticide, as defined under chapter 18B, a fertilizer, an agricultural liming material, a plant amendment, or a soil amendment as defined under chapter 18C, unless the commissioner of agriculture approves the action.

Subd. 6. **Fees.** The commissioner may establish by rule a fee payable by a manufacturer to the commissioner upon submission of the information required under subdivision 2 to cover the agency's reasonable costs to implement this section. Fees collected under this subdivision must be deposited in an account in the environmental fund.

Subd. 7. **Enforcement.** (a) The commissioner may enforce this section under sections 115.071 and 116.072. The commissioner may coordinate with the commissioners of agriculture, commerce, and health in enforcing this section.

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(b) When requested by the commissioner, a person must furnish to the commissioner any information that the person may have or may reasonably obtain that is relevant to show compliance with this section.

Subd. 8. **Exemptions.** (a) This section does not apply to:

(1) a product for which federal law governs the presence of PFAS in the product in a manner that preempts state authority;

(2) a product regulated under section 325F.072 or 325F.075; or

(3) the sale or resale of a used product.

(b) Subdivisions 4 and 5 do not apply to a 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.

Subd. 9. **Rules.** The commissioner may adopt rules necessary to implement this section. Section 14.125 does not apply to the commissioner's rulemaking authority under this section.

Subd. 10. **Short title.** This section is "Amara's Law."

History: 2023 c 60 art 3 s 21

Maine

1614. Products containing PFAS

(REALLOCATED FROM TITLE 38, SECTION 1612)

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Carpet or rug" means a consumer product made from natural or synthetic fabric intended to be used as a floor covering inside commercial or residential buildings. "Carpet or rug" includes, but is not limited to, a carpeted doormat, but does not include:

- (1) A carpet or rug intended solely for outdoor use;
- (2) A carpet or rug intended solely for use inside an aircraft, train, watercraft, automobile, light duty truck, van, bus or any other vehicle and any aftermarket or replacement part marketed solely for use in a vehicle;
- (3) A resilient floor covering;
- (4) Artificial turf;
- (5) A wall hanging or covering;
- (6) A table mat; or
- (7) A camping sleeping mat. [PL 2023, c. 630, §1 (AMD).]

A-1. "Adult mattress" means a mattress that is not a crib mattress or a toddler mattress. [PL 2023, c. 630, §1 (NEW).]

A-2. "Aerosol propellant" has the same meaning as in [section 1613, subsection 1, paragraph A](#). [PL 2023, c. 630, §1 (NEW).]

A-3. "Air care product" means a chemically formulated consumer product labeled to indicate that the purpose of the product is to enhance or condition an indoor environment by eliminating odors or freshening the air. [PL 2023, c. 630, §1 (NEW).]

A-4. "Aircraft" means a contrivance operated by direct physical contact from a human that is used or designed for navigation of or flight in the air that requires certification and registration as prescribed by federal law or regulation. "Aircraft" does not include:

- (1) A lighter-than-air balloon operated by direct physical contact from a human; or
- (2) An ultralight vehicle, as defined in 14 Code of Federal Regulations, Part 103, regardless of whether the ultralight vehicle is certified by the United States Department of Transportation, Federal Aviation Administration. [PL 2023, c. 630, §1 (NEW).]

A-5. "Alternative" means a substance or chemical that, if used in place of a PFAS in a product, would result in a functionally equivalent product and would reduce the potential for harm to human health or the environment or that has not been shown to pose the same or greater potential harm to human health or the environment as the PFAS. "Alternative" includes:

- (1) A reformulated version of a product in which the intentionally added PFAS in the product has been removed; and
- (2) Changes to a product's manufacturing process that result in the removal of the PFAS from the product. [PL 2023, c. 630, §1 (NEW).]

A-6. "Architectural fabric structure" means a permanent fabric structure that is intrinsic to the design or construction of a building. [PL 2023, c. 630, §1 (NEW).]

A-7. "Artificial turf" means an artificial product made from synthetic material that simulates the appearance of natural turf, grass, sod or lawn. [PL 2023, c. 630, §1 (NEW).]

A-8. "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. "Automotive maintenance product" includes products for washing, waxing, polishing, cleaning or treating the exterior or interior surface of a motor vehicle, but does not include automotive paint or automotive paint repair products. [PL 2023, c. 630, §1 (NEW).]

A-9. "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 and a polish or floor maintenance product. [PL 2023, c. 630, §1 (NEW).]

A-10. "Cookware product" means a durable houseware product intended to be used to prepare, dispense or store food, foodstuffs or beverages, including, but not limited to, a pot, pan, skillet, grill, baking sheet, baking mold, tray, bowl and cooking utensil. [PL 2023, c. 630, §1 (NEW).]

A-11. "Cosmetic product" means a product intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness or altering the appearance. "Cosmetic product" includes any product intended for use as a component of another cosmetic product, but does not include soap or a product that requires a prescription for distribution or dispensing. [PL 2023, c. 630, §1 (NEW).]

B. "Currently unavoidable use" means a use of PFAS that the department has determined by rule under this section to be essential for health, safety or the functioning of society and for which alternatives are not reasonably available. [PL 2021, c. 477, §1 (NEW); RR 2021, c. 1, Pt. A, §54 (RAL).]

B-1. "Essential for health, safety or the functioning of society" means a use of a PFAS in a product when the function provided by the PFAS is necessary for the product to perform as intended, such that the unavailability of the PFAS for use in the product would cause the product to be unavailable, which would result in:

- (1) A significant increase in negative health outcomes;
- (2) An inability to mitigate significant risks to human health or the environment; or
- (3) A significant disruption of the daily functions on which society relies. [PL 2023, c. 630, §1 (NEW).]

C. "Fabric treatment" means a substance applied to fabric to give the fabric one or more characteristics, including but not limited to stain resistance or water resistance. [PL 2021, c. 477, §1 (NEW); RR 2021, c. 1, Pt. A, §54 (RAL).]

C-1. "Foam" has the same meaning as in [section 1613, subsection 1, paragraph K](#). "Foam" does not include a firefighting or fire-suppressing foam or related product regulated under [section 424-C](#). [PL 2023, c. 630, §1 (NEW).]

D. "Intentionally added PFAS" means PFAS added to a product or one of its product components to provide a specific characteristic, appearance or quality or to perform a specific function. "Intentionally added PFAS" also includes any degradation by-products of PFAS. [PL 2021, c. 477, §1 (NEW); RR 2021, c. 1, Pt. A, §54 (RAL).]

D-1. "Juvenile product" means a product designed or marketed for use by infants and children under 12 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; and toddler mattress. "Juvenile product" does not include an adult mattress or an electronic product marketed

for use by children under 12 years of age, including a personal computer, audio and video equipment, calculator, wireless telephone, game console, handheld device incorporating a video screen and any associated peripheral, such as a mouse, keyboard, power supply unit or power cord. [PL 2023, c. 630, §1 (NEW).]

D-2. "Known to or reasonably ascertainable by" means, with respect to a person, all information in the person's possession or control as well as all information that a reasonable person similarly situated might be expected to possess, control or know. [PL 2023, c. 630, §1 (NEW).]

E. "Manufacturer" means the person that manufactures a product or whose brand name is affixed to the product. In the case of a product imported into the United States, "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. [PL 2021, c. 477, §1 (NEW); RR 2021, c. 1, Pt. A, §54 (RAL).]

E-1. "Medical device" has the same meaning as the term "device" as defined in 21 United States Code, Section 321(h). [PL 2023, c. 630, §1 (NEW).]

E-2. "Off-highway vehicle" means a vehicle designed to be or marketed as capable of off-highway operation, including, but not limited to:

- (1) A motorcycle or motor-driven cycle;
- (2) A snowmobile or other vehicle designed to travel over snow or ice;
- (3) A sand buggy, dune buggy or similar all-terrain vehicle;
- (4) A motor vehicle commonly referred to as a jeep; and
- (5) A recreational off-highway vehicle. [PL 2023, c. 630, §1 (NEW).]

E-3. "Outdoor apparel for severe wet conditions" means a clothing item that is an extreme and extended use product 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 to protect the health and safety of the user and that are not marketed for general consumer use, including, but not limited to, such extreme and extended use products designed for offshore fishing, offshore sailing, whitewater kayaking and mountaineering. [PL 2023, c. 630, §1 (NEW).]

F. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means substances that include any member of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom. [PL 2021, c. 477, §1 (NEW); RR 2021, c. 1, Pt. A, §54 (RAL).]

G. "Product" means an item manufactured, assembled, packaged or otherwise prepared for sale to consumers, including its product components, sold or distributed for personal, residential, commercial or industrial use, including for use in making other products. [PL 2021, c. 477, §1 (NEW); RR 2021, c. 1, Pt. A, §54 (RAL).]

H. "Product component" means an identifiable component of a product, regardless of whether the manufacturer of the product is the manufacturer of the component. [PL 2021, c. 477, §1 (NEW); RR 2021, c. 1, Pt. A, §54 (RAL).]

H-1. "Proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available. [PL 2023, c. 630, §1 (NEW).]

I. "Publicly owned treatment works" has the same meaning as in [section 361-A](#). [PL 2021, c. 477, §1 (NEW); RR 2021, c. 1, Pt. A, §54 (RAL).]

J. "Refrigerant" has the same meaning as in [section 1613, subsection 1, paragraph Y](#). [PL 2023, c. 630, §1 (NEW).]

K. "Single-use" means, with respect to a product, conventionally disposed of after one use or not sufficiently durable or washable to be, or not intended to be, reusable or refillable. [PL 2023, c. 630, §1 (NEW).]

L. "Ski wax" means a 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 related tuning products. [PL 2023, c. 630, §1 (NEW).]

M. "Textile" means an item made in whole or in part from natural or synthetic fiber, yarn or fabric, including, but not limited to, leather, cotton, silk, jute, hemp, wool, viscose, nylon and polyester. "Textile" does not include a single-use absorbent hygiene product or a single-use paper hygiene product, including, but not limited to, toilet paper, paper towels or tissues. [PL 2023, c. 630, §1 (NEW).]

N. "Textile article" means a textile good of a type customarily and ordinarily used in households and businesses. "Textile article" includes, but is not limited to, apparel, accessories, handbags, backpacks, draperies, shower curtains, furnishings, upholstery, beddings, towels, napkins and tablecloths, but does not include:

- (1) A carpet or rug;
- (2) A treatment for use on converted textiles or leathers;
- (3) A textile used in or designed for laboratory analysis and testing;
- (4) A stadium shade or other architectural fabric structure; or
- (5) Filtration media or a filter product used in industrial applications, including, but not limited to, chemical or pharmaceutical manufacturing and environmental control technologies. [PL 2023, c. 630, §1 (NEW).]

O. "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. [PL 2023, c. 630, §1 (NEW).]

P. "Vehicle" means a device by which any person or property may be propelled, moved or drawn upon a way but does not include such a device that is moved exclusively by human power or that is used exclusively upon stationary rails or tracks. [PL 2023, c. 630, §1 (NEW).]
[PL 2023, c. 630, §1 (AMD).]

2. Notification. Except as provided pursuant to [paragraph D](#) or [subsection 3](#), a manufacturer of a product for sale in the State that contains intentionally added PFAS and for which the department has determined that the use of PFAS in the product is a currently unavoidable use in accordance with [subsection 5, paragraph F](#) shall comply with the requirements of this subsection.

A. The manufacturer shall submit to the department a written notification that includes, to the extent known to or reasonably ascertainable by the manufacturer:

- (1) A brief description of the product, including an estimate of the total number of units of the product sold annually in the State or nationally;
- (2) The purpose for which PFAS are used in the product, including in any product components;
- (3) The amount of each of the PFAS, identified by its chemical abstracts service registry number or in the absence of this number a description approved by the department, in the product, reported as an exact quantity, or as the amount of total organic fluorine if the amount of each of the PFAS is not known, determined using commercially available analytical methods or based on information provided by a supplier as falling within a range approved for reporting purposes by the department or, if the manufacturer is unable to provide information regarding the amount of each of the PFAS in the product, the total weight of the product;
- (4) The name and address of the manufacturer, and the name, address and phone number of a contact person for the manufacturer;

(4-A) The identification of the applicable determination adopted by the department by rule pursuant to [subsection 5, paragraph F](#) that the use of PFAS in the product is a currently unavoidable use; and

(5) Any additional information required by the department by rule. [PL 2023, c. 630, §1 (AMD).]

A-1. At the time the manufacturer submits to the department the written notice required in [paragraph A](#), the manufacturer shall also pay to the department the applicable fee established by the department by rule pursuant to [subsection 6](#). [PL 2023, c. 630, §1 (NEW).]

B. With the approval of the department, the manufacturer may supply the information required in [paragraph A](#) for a category or type of product rather than for each individual product. [PL 2023, c. 630, §1 (AMD).]

C. In accordance with rules adopted by the department, the manufacturer shall update and revise the information in the written notification whenever there is significant change in the information or when requested to do so by the department. [PL 2023, c. 630, §1 (AMD).]

D. The requirements of this subsection do not apply to a manufacturer that employs 100 or fewer people. [PL 2023, c. 630, §1 (AMD).]
[PL 2023, c. 630, §1 (AMD).]

3. Waiver of notification; coordination with other states. The department may waive all or part of the notification requirement under [subsection 2](#) if the department determines that substantially equivalent information is already publicly available. The department may enter into an agreement with one or more other states or political subdivisions of a state to collect notifications and may accept notifications to a shared system as meeting the notification requirement under [subsection 2](#).

[PL 2023, c. 630, §1 (AMD).]

4. Exemptions. The following are exempt from this section:

A. A product for which federal law governs the presence of PFAS in the product in a manner that preempts state authority; [PL 2023, c. 138, §3 (AMD).]

B. A package, as defined in [Title 32, section 1732, subsection 4](#), for a product, except when the package is the product of the manufacturer. The exemption under this paragraph does not apply to the package of a product prohibited from sale, offer for sale or distribution for sale pursuant to [subsection 5, paragraph B, B-1, D or E](#) if that package is a fluorinated container or a container that otherwise contains intentionally added PFAS; [PL 2023, c. 630, §1 (AMD).]

C. A used product or used product component; [PL 2023, c. 630, §1 (AMD).]

D. A firefighting or fire-suppressing foam or related product regulated under [section 424-C](#); [PL 2023, c. 630, §1 (NEW).]

E. A prosthetic or orthotic device or any product that is a medical device, drug or biologic or that is otherwise used in a medical setting or in medical applications that are regulated by or under the jurisdiction of the United States Food and Drug Administration; [PL 2023, c. 630, §1 (NEW).]

F. A veterinary product intended for use in or on animals, including diagnostic equipment or test kits and their components and any product that is a veterinary medical device, drug, biologic or parasiticide or that is otherwise used in a veterinary medical setting or in veterinary medical applications that are regulated by or under the jurisdiction of:

(1) The United States Food and Drug Administration;

(2) The United States Department of Agriculture pursuant to the federal Virus-Serum-Toxin Act; or

(3) The United States Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, except that any such products approved by the United States

Environmental Protection Agency pursuant to that law for aerial or land application are not exempt from this section; [PL 2023, c. 630, §1 (NEW).]

G. A product developed or manufactured for the purposes of public health, environmental or water quality testing; [PL 2023, c. 630, §1 (NEW).]

H. A product required to meet standards or requirements of the United States Department of Transportation, Federal Aviation Administration, the National Aeronautics and Space Administration, the United States Department of Defense or the United States Department of Homeland Security, except that the exemption under this paragraph does not apply to any textile article or refrigerant that is included in or as a component part of such products; [PL 2023, c. 630, §1 (NEW).]

I. A motor vehicle or motor vehicle equipment regulated under a federal motor vehicle safety standard, as defined in 49 United States Code, Section 30102(a)(10), and any other motor vehicle, including an off-highway vehicle or specialty motor vehicle, such as an all-terrain vehicle, side-by-side vehicle, farm equipment or personal assistive mobility device, except that the exemption under this paragraph does not apply to any textile article or refrigerant that is included in or as a component part of such products; [PL 2023, c. 630, §1 (NEW).]

J. A watercraft, as defined in [Title 12, section 13001, subsection 28](#), or a seaplane, except that the exemption under this paragraph does not apply to any textile article or refrigerant that is included in or as a component part of such products; [PL 2023, c. 630, §1 (NEW).]

K. A semiconductor, including semiconductors incorporated in electronic equipment, and equipment and materials used in the manufacture of semiconductors; [PL 2023, c. 630, §1 (NEW).]

L. Nonconsumer electronics and nonconsumer laboratory equipment not ordinarily used for personal, family or household purposes; and [PL 2023, c. 630, §1 (NEW).]

M. Equipment directly used in the manufacture or development of the products described in [paragraphs E to L](#). [PL 2023, c. 630, §1 (NEW).]

[PL 2023, c. 630, §1 (AMD).]

5. Prohibition on sale of products containing intentionally added PFAS. This subsection governs sales of products containing intentionally added PFAS.

A. Except as provided pursuant to [paragraph F](#) or [G](#), effective January 1, 2023, a person may not sell, offer for sale or distribute for sale in this State a carpet or rug that contains intentionally added PFAS. The prohibition under this paragraph does not apply to the sale, offer for sale or distribution for sale of any carpet or rug in used condition. [PL 2023, c. 630, §1 (AMD).]

B. Except as provided pursuant to [paragraph F](#) or [G](#), effective January 1, 2023, a person may not sell, offer for sale or distribute for sale in this State a fabric treatment that contains intentionally added PFAS.

The prohibition under this paragraph applies to a fabric treatment that does not contain intentionally added PFAS but that is sold, offered for sale or distributed for sale in a fluorinated container or in a container that otherwise contains intentionally added PFAS. The prohibition under this paragraph does not apply to the sale, offer for sale or distribution for sale of any fabric treatment in used condition. [PL 2023, c. 630, §1 (AMD).]

B-1. Except as provided pursuant to [paragraph F](#) or [G](#), effective January 1, 2026, a person may not sell, offer for sale or distribute for sale in this State:

- (1) A cleaning product containing intentionally added PFAS;
- (2) A cookware product containing intentionally added PFAS;
- (3) A cosmetic product containing intentionally added PFAS;

- (4) Dental floss containing intentionally added PFAS;
- (5) A juvenile product containing intentionally added PFAS;
- (6) A menstruation product containing intentionally added PFAS;
- (7) A textile article containing intentionally added PFAS. The prohibition under this subparagraph does not include:
 - (a) Outdoor apparel for severe wet conditions; or
 - (b) A textile article that is included in or a component part of a watercraft, aircraft or motor vehicle, including an off-highway vehicle;
- (8) Ski wax containing intentionally added PFAS; or
- (9) Upholstered furniture containing intentionally added PFAS.

The prohibition under this paragraph applies to any of the products listed in subparagraphs (1) to (9) that do not contain intentionally added PFAS but that are sold, offered for sale or distributed for sale in a fluorinated container or in a container that otherwise contains intentionally added PFAS. The prohibition under this paragraph does not apply to any of the products listed in subparagraphs (1) to (9) that are sold, offered for sale or distributed for sale in used condition. [PL 2023, c. 630, §1 (NEW) .]

B-2. Except as provided pursuant to [paragraph F](#) or [G](#), effective January 1, 2029, a person may not sell, offer for sale or distribute for sale in this State:

- (1) Artificial turf containing intentionally added PFAS; or
- (2) Outdoor apparel for severe wet conditions containing intentionally added PFAS, unless the apparel is accompanied by a legible, easily discernable disclosure that includes the following statement: "Made with PFAS chemicals." The disclosure requirement under this subparagraph applies to all sales, offers for sale or distributions for sale in this State of outdoor apparel for severe wet conditions containing intentionally added PFAS, including those conducted using the Internet. The prohibition under this paragraph does not apply to any of the products listed in subparagraphs (1) and (2) that are sold, offered for sale or distributed for sale in used condition. [PL 2023, c. 630, §1 (NEW) .]

C. The department may by rule identify products by category or use that may not be sold, offered for sale or distributed for sale in this State if they contain intentionally added PFAS. The department shall prioritize the prohibition of the sale of product categories that, in the department's judgment, are most likely to cause contamination of the State's land or water resources if they contain intentionally added PFAS. The department may not prohibit by rule pursuant to this paragraph the sale, offer for sale or distribution for sale of products in used condition.

Rules adopted pursuant to this paragraph are major substantive rules as defined in [Title 5, chapter 375, subchapter 2-A](#). [PL 2023, c. 630, §1 (AMD) .]

D. Except as otherwise provided in this paragraph or pursuant to [paragraph F](#) or [G](#), effective January 1, 2032, a person may not sell, offer for sale or distribute for sale in this State any product that contains intentionally added PFAS that is not already prohibited from sale, offer for sale or distribution for sale pursuant to [paragraph A](#), [B](#), [B-1](#), [B-2](#) or [C](#), unless the department has determined by rule in accordance with [paragraph F](#) that the use of PFAS in the product is a currently unavoidable use.

The prohibition under this paragraph applies to any such products that do not contain intentionally added PFAS but that are sold, offered for sale or distributed for sale in a fluorinated container or in a container that otherwise contains intentionally added PFAS. The prohibition under this paragraph does not apply to:

- (1) Any such products sold, offered for sale or distributed for sale in used condition;

(2) Cooling, heating, ventilation, air conditioning and refrigeration equipment, including parts and other servicing needs for such equipment; or

(3) Refrigerants, foams and aerosol propellants that are listed as acceptable, acceptable subject to use conditions or acceptable subject to narrowed use limits by the United States Environmental Protection Agency pursuant to the Significant New Alternatives Policy program, 40 Code of Federal Regulations, Part 82, Subpart G, as long as the refrigerant, foam or aerosol propellant is sold, offered for sale or distributed for sale for the use for which it is listed pursuant to that program. [PL 2023, c. 630, §1 (AMD).]

E. Except as provided pursuant to [paragraph F](#) or [G](#), effective January 1, 2040, a person may not sell, offer for sale or distribute for sale in this State:

(1) Cooling, heating, ventilation, air conditioning or refrigeration equipment that contains intentionally added PFAS; or

(2) Refrigerants, foams or aerosol propellants that contain intentionally added PFAS.

The prohibition under this paragraph applies to any of the products listed in subparagraphs (1) and (2) that do not contain intentionally added PFAS but that are sold, offered for sale or distributed for sale in a fluorinated container or in a container that otherwise contains intentionally added PFAS.

The prohibition under this paragraph does not apply to any such products sold, offered for sale or distributed for sale in used condition or to parts and other servicing needs for cooling, heating, ventilation, air conditioning or refrigeration equipment, including refrigerants used in the servicing of such equipment as long as the refrigerant is listed as acceptable, acceptable subject to use conditions or acceptable subject to narrowed use limits by the United States Environmental Protection Agency pursuant to the Significant New Alternatives Policy program, 40 Code of Federal Regulations, Part 82, Subpart G and sold, offered for sale or distributed for sale for the use for which the refrigerant is listed pursuant to that program. [PL 2023, c. 630, §1 (NEW).]

F. The department may by rule identify specific products or product categories containing intentionally added PFAS for which it has determined the use of PFAS in the product is a currently unavoidable use. If the department determines by rule that the use of PFAS in a product or product category is a currently unavoidable use:

(1) The product is exempt from the otherwise applicable prohibition in this subsection, or in the rules adopted pursuant to [paragraph C](#), on the sale, offer for sale or distribution for sale of the product for one of the following periods of time, whichever provides a longer period of exemption:

(a) Five years from the effective date of the rule determining that the use of PFAS in the product or product category is a currently unavoidable use; or

(b) Five years from the effective date of the otherwise applicable prohibition in this subsection or in the rules adopted pursuant to [paragraph C](#); and

(2) A manufacturer of the product that sells, offers for sale or distributes for sale the product in this State shall comply with the notification requirement of [subsection 2](#). [PL 2023, c. 630, §1 (NEW).]

G. The prohibitions in this subsection do not apply to a retailer in the State unless the retailer sells, offers for sale or distributes for sale a product containing intentionally added PFAS in the State for which the retailer has received a notification pursuant to [subsection 8, paragraph B](#) that the sale of the product is prohibited. [PL 2023, c. 630, §1 (NEW).]

[PL 2023, c. 630, §1 (AMD).]

6. Fees. The department may establish by rule and assess a fee payable by a manufacturer that is required to comply with the notification requirement of [subsection 2](#) to cover the department's reasonable costs in administering the requirements of this section.

Notwithstanding [Title 5, section 8071](#), rules adopted pursuant to this subsection are routine technical rules as defined in [Title 5, chapter 375, subchapter 2-A](#).

[PL 2023, c. 630, §1 (AMD).]

7. Failure to provide notice. Beginning January 1, 2032, a person may not sell, offer for sale or distribute for sale in the State a product containing intentionally added PFAS for which the department has determined that the use of PFAS in the product is a currently unavoidable use pursuant to [subsection 5, paragraph F](#) if the manufacturer of the product has failed to provide the information required under [subsection 2](#). This prohibition does not apply to a retailer in the State unless the retailer sells, offers for sale or distributes for sale a product containing intentionally added PFAS in the State for which the retailer has received a notification pursuant to [subsection 8, paragraph B](#) that the sale of the product is prohibited.

A. [PL 2023, c. 630, §1 (RP).]

B. [PL 2023, c. 630, §1 (RP).]

C. [PL 2023, c. 630, §1 (RP).]

D. [PL 2023, c. 630, §1 (RP).]

E. [PL 2023, c. 630, §1 (RP).]

[PL 2023, c. 630, §1 (AMD).]

8. Certificate of compliance. If the department has reason to believe that a product contains intentionally added PFAS and is being sold, offered for sale or distributed for sale in violation of [subsections 5 or 7](#), the department may direct the manufacturer of the product to, within 30 days:

A. Provide the department with a certificate attesting that the product does not contain intentionally added PFAS; or [PL 2023, c. 630, §1 (AMD).]

B. Notify persons that sell, offer for sale or distribute for sale the product in this State that the sale of the product is prohibited in this State and provide the department with a list of the names and addresses of those persons notified. [PL 2023, c. 630, §1 (AMD).]

[PL 2023, c. 630, §1 (AMD).]

9. PFAS source reduction program. To the extent funds are available and in consultation with relevant stakeholders, the department shall develop and implement a program to reduce the presence of PFAS in discharges to air, water and land by encouraging the use of alternatives to and the proper management of materials containing PFAS. The program may include:

A. Information resources targeted to industrial or commercial users of PFAS; [PL 2021, c. 477, §1 (NEW); RR 2021, c. 1, Pt. A, §54 (RAL).]

B. Education of the general public; [PL 2021, c. 477, §1 (NEW); RR 2021, c. 1, Pt. A, §54 (RAL).]

C. To the extent funds are available, grants to operators of publicly owned treatment works for the purposes of developing, expanding or implementing pretreatment standards for PFAS and education of users on sources of PFAS and proper management; [PL 2021, c. 477, §1 (NEW); RR 2021, c. 1, Pt. A, §54 (RAL).]

D. To the extent funds are available, grants to municipalities for the purposes of educating solid waste disposal users on sources of PFAS and proper management; and [PL 2021, c. 477, §1 (NEW); RR 2021, c. 1, Pt. A, §54 (RAL).]

E. Other efforts determined by the department to be prudent to achieve the program's purpose. [PL 2021, c. 477, §1 (NEW); RR 2021, c. 1, Pt. A, §54 (RAL).]

[PL 2023, c. 630, §1 (AMD).]

10. Rules. The department shall adopt rules to implement this section. Except as provided in [subsection 5, paragraph C](#), rules adopted to implement this section are routine technical rules as defined in [Title 5, chapter 375, subchapter 2-A](#).

[PL 2021, c. 477, §1 (NEW); RR 2021, c. 1, Pt. A, §54 (RAL).]

11. Report. By January 1, 2026, and biennially thereafter, the department shall submit to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters a report regarding the implementation of this section and other state and federal laws governing the presence of PFAS in products, including any recommendations for necessary legislative changes to this section. After reviewing the report, the committee may report out legislation relating to the report.

[PL 2023, c. 630, §1 (NEW).]

12. Proprietary information. Proprietary information submitted to the department by a manufacturer pursuant to the requirements of this section that is identified by the manufacturer as proprietary information is confidential and must be handled by the department in the same manner as confidential information is handled under [section 1310-B](#).

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