

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 834

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DATE	D-PG	OFFICIAL STATUS
01/26/2023	421	Introduction and first reading
		Referred to Environment, Climate, and Legacy
03/06/2023	1311a	Comm report: To pass as amended and re-refer to Commerce and Consumer Protection

1.1 A bill for an act

1.2 relating to environment; prohibiting PFAS in certain products; requiring disclosure;

1.3 authorizing rulemaking; proposing coding for new law in Minnesota Statutes,

1.4 chapter 116.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [116.943] PRODUCTS CONTAINING PFAS.

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

1.8 the meanings given.

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

1.10 (c) "Air care product" means a chemically formulated consumer product labeled to

1.11 indicate that the purpose of the product is to enhance or condition the indoor environment

1.12 by eliminating odors or freshening the air.

1.13 (d) "Automotive maintenance product" means a chemically formulated consumer product

1.14 labeled to indicate that the purpose of the product is to maintain the appearance of a motor

1.15 vehicle, including products for washing, waxing, polishing, cleaning, or treating the exterior

1.16 or interior surfaces of motor vehicles. Automotive maintenance product does not include

1.17 automotive paint or paint repair products.

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

1.19 (f) "Cleaning product" means a finished product used primarily for domestic, commercial,

1.20 or institutional cleaning purposes, including but not limited to an air care product, an

1.21 automotive maintenance product, a general cleaning product, or a polish or floor maintenance

1.22 product.

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

2.2 (h) "Cookware" means durable houseware items that are used in homes and restaurants
2.3 to prepare, dispense, or store food, foodstuffs, or beverages. Cookware includes pots, pans,
2.4 skillets, grills, baking sheets, baking molds, trays, bowls, and cooking utensils.

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

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

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

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

2.15 (i) including but not limited to a baby or toddler foam pillow; bassinet; bedside sleeper;
2.16 booster seat; changing pad; child restraint system for use in motor vehicles and aircraft;
2.17 co-sleeper; crib mattress; highchair; highchair pad; infant bouncer; infant carrier; infant
2.18 seat; infant sleep positioner; infant swing; infant travel bed; infant walker; nap cot; nursing
2.19 pad; nursing pillow; play mat; playpen; play yard; polyurethane foam mat, pad, or pillow;
2.20 portable foam nap mat; portable infant sleeper; portable hook-on chair; soft-sided portable
2.21 crib; stroller; and toddler mattress; and

2.22 (ii) not including a children's electronic product such as a personal computer, audio and
2.23 video equipment, calculator, wireless phone, game console, handheld device incorporating
2.24 a video screen, or any associated peripheral such as a mouse, keyboard, power supply unit,
2.25 or power cord; a medical device; or an adult mattress.

2.26 (m) "Manufacturer" means the person that creates or produces a product or whose brand
2.27 name is affixed to the product. In the case of a product imported into the United States,
2.28 manufacturer includes the importer or first domestic distributor of the product if the person
2.29 that manufactured or assembled the product or whose brand name is affixed to the product
2.30 does not have a presence in the United States.

2.31 (n) "Medical device" has the meaning given "device" under United States Code, title
2.32 21, section 321, subsection (h).

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

3.3 (p) "Product" means an item manufactured, assembled, packaged, or otherwise prepared
3.4 for sale to consumers, including its product components, sold or distributed for personal,
3.5 residential, commercial, or industrial use, including for use in making other products.

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

3.8 (r) "Ski wax" means a lubricant applied to the bottom of snow runners, including skis
3.9 and snowboards, to improve their grip and glide properties. Ski wax includes related tuning
3.10 products.

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

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

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

3.20 Subd. 2. **Notification required.** (a) Beginning January 1, 2025, a manufacturer of a
3.21 product for sale in the state that contains intentionally added PFAS must submit to the
3.22 commissioner a written notification that includes:

3.23 (1) a brief description of the product;

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

3.26 (3) the amount of each PFAS, identified by its chemical abstracts service registry number,
3.27 in the product, reported as an exact quantity determined using commercially available
3.28 analytical methods or as falling within a range approved for reporting purposes by the
3.29 commissioner;

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

4.1 (5) any additional information established by the commissioner by rule as necessary to
4.2 implement the requirements of this section.

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

4.6 (c) In accordance with rules adopted by the commissioner, a manufacturer must update
4.7 and revise the information in the written notification whenever there is significant change
4.8 in the information or when requested to do so by the commissioner.

4.9 Subd. 3. **Notification requirement waivers; extensions.** The commissioner may waive
4.10 all or part of the notification requirement under subdivision 2 if the commissioner determines
4.11 that substantially equivalent information is already publicly available. The commissioner
4.12 may enter into an agreement with one or more other states or political subdivisions of a
4.13 state to collect notifications and may accept notifications to a shared system as meeting the
4.14 notification requirement under subdivision 2. The commissioner may extend the deadline
4.15 for submission by a manufacturer of the information required under subdivision 2 if the
4.16 commissioner determines that more time is needed by the manufacturer to comply with the
4.17 submission requirement.

4.18 Subd. 4. **Failure to provide notice.** (a) A person may not sell, offer for sale, or distribute
4.19 for sale in the state a product containing intentionally added PFAS if the manufacturer has
4.20 failed to provide the information required under subdivision 2.

4.21 (b) The commissioner may exempt a product from the prohibition under this subdivision
4.22 if the commissioner determines that the use of PFAS in the product is a currently unavoidable
4.23 use.

4.24 (c) The prohibition in this subdivision does not apply to a retailer in the state unless the
4.25 retailer sells, offers for sale, or distributes for sale in the state a product for which the retailer
4.26 has received a notification under subdivision 5 that the sale of the product is prohibited.

4.27 Subd. 5. **Certificate of compliance.** If the commissioner has reason to believe that a
4.28 product contains intentionally added PFAS and is being offered for sale in violation of
4.29 subdivision 4, paragraph (a), the commissioner may direct the manufacturer of the product
4.30 to, within 30 days:

4.31 (1) provide the commissioner with a certificate attesting that the product does not contain
4.32 intentionally added PFAS; or

5.1 (2) notify persons who sell that product in this state that the sale of that product is
5.2 prohibited in this state and provide the commissioner with a list of the names and addresses
5.3 of those notified.

5.4 Subd. 6. **Prohibitions.** (a) Beginning January 1, 2025, a person may not sell, offer for
5.5 sale, or distribute for sale in this state the following products if the product contains
5.6 intentionally added PFAS:

5.7 (1) carpets or rugs;

5.8 (2) cleaning products;

5.9 (3) cookware;

5.10 (4) cosmetics;

5.11 (5) fabric treatments;

5.12 (6) juvenile products;

5.13 (7) textile furnishings;

5.14 (8) ski wax; or

5.15 (9) upholstered furniture.

5.16 (b) The commissioner may by rule identify products by category or use that may not be
5.17 sold, offered for sale, or distributed for sale in this state if they contain intentionally added
5.18 PFAS. The commissioner must prioritize the prohibition of the sale of product categories
5.19 that, in the commissioner's judgment, are most likely to cause contamination of the state's
5.20 land or water resources if they contain intentionally added PFAS. Products in which the use
5.21 of PFAS is a currently unavoidable use as determined by the commissioner may be exempted
5.22 by the commissioner by rule.

5.23 (c) Beginning January 1, 2030, a person may not sell, offer for sale, or distribute for sale
5.24 in this state any product that contains intentionally added PFAS, unless the commissioner
5.25 has determined by rule that the use of PFAS in the product is a currently unavoidable use.
5.26 The commissioner may specify specific products or product categories for which the
5.27 commissioner has determined the use of PFAS is a currently unavoidable use.

5.28 Subd. 7. **Fees.** The commissioner may establish by rule a fee payable by a manufacturer
5.29 upon submission of the notification required under subdivision 2 to cover the agency's
5.30 reasonable costs to implement this section. The fee is not subject to section 16A.1283.

6.1 Subd. 8. **Enforcement.** (a) The commissioner may enforce this section under sections
6.2 115.071 and 116.072. The commissioner may coordinate with the commissioners of
6.3 commerce and health in enforcing this section.

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

6.7 Subd. 9. **Exemptions.** This section does not apply to:

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

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

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

6.12 Subd. 10. **Rules.** The commissioner may adopt rules necessary to implement this section.