

STATE OF NEW YORK

3556

2023-2024 Regular Sessions

IN ASSEMBLY

February 3, 2023

Introduced by M. of A. ZEBROWSKI -- read once and referred to the
Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to
prohibiting the sale of products that contain intentionally added PFAS

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Article 37 of the environmental conservation law is amended
2 by adding a new title 4 to read as follows:

3 TITLE IV

4 PRODUCTS CONTAINING PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES

5 Section 37-0401. Definitions.

6 37-0403. Prohibition on sale of covered products.

7 37-0405. Required notification.

8 37-0407. Violations.

9 § 37-0401. Definitions.

10 For purposes of this title, the following terms have the following
11 definitions:

12 1. "Covered product" means textile articles, rugs, fabric treatments,
13 cookware, ski waxes, architectural paints, or cleaning products, or a
14 component thereof.

15 2. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a
16 class of fluorinated organic chemicals containing at least one fully
17 fluorinated carbon atom.

18 3. "Regulated perfluoroalkyl and polyfluoroalkyl substances" or "regu-
19 lated PFAS" means PFAS that are:

20 (a) an intentionally added chemical as defined in subdivision eleven
21 of section 37-0901 of this article; or

22 (b) present in a product or product component at or above the practi-
23 cal quantitation limit, as measured in total organic fluorine.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 4. "Architectural paint" means interior and exterior architectural
2 coatings; provided, however, that "architectural paint" shall not
3 include industrial, original equipment or specialty coatings.

4 5. (a) "Cleaning product" means a finished product that is an air care
5 product, automotive product, general cleaning product, or a polish or
6 floor maintenance product used primarily for janitorial, domestic, or
7 institutional cleaning purposes.

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

12 (ii) "Automotive product" means a chemically formulated consumer prod-
13 uct labeled to indicate that the purpose of the product is to maintain
14 the appearance of a motor vehicle, as defined in section one hundred
15 twenty-five of the vehicle and traffic law, including products for wash-
16 ing, waxing, polishing, cleaning, or treating the exterior or interior
17 surfaces of motor vehicles. "Automotive product" does not include auto-
18 motive paint or paint repair products.

19 (iii) "General cleaning product" means a soap, detergent, or other
20 chemically formulated consumer product labeled to indicate that the
21 purpose of the product is to clean, disinfect, or otherwise care for
22 fabric, dishes, or other wares; surfaces including, but not limited to,
23 floors, furniture, countertops, showers, and baths; or other hard
24 surfaces, such as stovetops, microwaves, and other appliances.

25 (iv) "Polish or floor maintenance product" means a chemically formu-
26 lated consumer product, such as polish, wax, a stripper, or a restorer,
27 labeled to indicate that the purpose of the product is to polish,
28 protect, buff, condition, temporarily seal, strip, or maintain furni-
29 ture, floors, metal, leather, or other surfaces.

30 (b) "Cleaning product" shall not mean any of the following:

31 (i) Foods, drugs, and cosmetics, including personal care items such as
32 toothpaste, shampoo, and hand soap.

33 (ii) Industrial products specifically manufactured for, and exclusive-
34 ly used in the following: oil and gas production; steel production;
35 heavy industry manufacturing; industrial water treatment; industrial
36 textile maintenance and processing other than industrial laundering;
37 food and beverage processing and packaging; or other industrial manufac-
38 turing processes.

39 6. "Cookware" means durable items that are used in homes, restaurants,
40 institutional, and commercial kitchens to prepare, dispense, or store
41 food, foodstuffs, or beverages for indoor or outdoor use. "Cookware"
42 includes, but is not limited to, pots, pans, skillets, grills, baking
43 sheets, baking molds, trays, bowls, camping gear, and cooking utensils.

44 7. "Fabric treatment" means a substance applied to a fabric for stain,
45 grease, or water resistance.

46 8. "Manufacturer" means any person that manufactures a product or
47 whose brand name is affixed to the product. In the case of a product
48 imported into the United States, "manufacturer" includes the importer or
49 first domestic distributor of the product if the person that manufac-
50 tured or assembled the product or whose brand name is affixed to the
51 product does not have a presence in the United States.

52 9. "Rugs" means any consumer products made from natural or synthetic
53 fabric intended to be used as a floor covering, other than carpets, and
54 includes handmade rugs, area rugs, or mats.

1 10. "Ski wax" means a lubricant applied to the bottom of snow runners,
2 including skis and snowboards, to improve their grip and glide proper-
3 ties.

4 11. "Textile" means any item made in whole or in part from a natural,
5 man-made, or synthetic fiber, yarn, or fabric. Textile includes, but is
6 not limited to, the following: leather, cotton, silk, jute, hemp, wool,
7 viscose, nylon, or polyester.

8 12. "Textile articles" means non-wearable textile goods, outdoor
9 apparel, footwear, costumes and accessories.

10 (a) "Non-wearable textile goods" means textile goods of a type custom-
11 arily used in households and businesses that are not customarily worn.
12 Textile articles include, but are not limited to, handbags, backpacks,
13 draperies, shower curtains, furnishings, upholstery, beddings, towels,
14 napkins, and tablecloths. For the purposes of this title, textile arti-
15 cles do not include rugs or personal protective equipment.

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

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

23 § 37-0403. Prohibition on sale of covered products.

24 1. Commencing on January first, two thousand twenty-five, no person
25 shall distribute, sell, or offer for sale in the state any covered prod-
26 uct that contains regulated perfluoroalkyl and polyfluoroalkyl
27 substances.

28 2. The prohibition on distribution, sale or offer of sale in this
29 title does not apply to the sale or resale of used products.

30 § 37-0405. Required notification.

31 1. A manufacturer of a covered product sold into the state that
32 contains regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS
33 shall provide persons that offer the product for sale or distribution in
34 the state with a certificate of compliance. The certificate of compli-
35 ance shall provide assurance, at a minimum, that the product does not
36 contain any intentionally added PFAS. Any certificate of compliance
37 provided under this section shall be signed by an authorized official of
38 the manufacturer.

39 2. If regulated perfluoroalkyl or polyfluoroalkyl or PFAS are discov-
40 ered in the covered product after the issuance of the certificate of
41 compliance, the manufacturer shall recall the covered product and reim-
42 burse the distributor or retailer for the covered product.

43 § 37-0407. Violations.

44 1. A violation of any of the provisions of this title or any rule or
45 regulation promulgated pursuant thereto shall be punishable in the case
46 of a first violation, by a civil penalty not to exceed ten thousand
47 dollars. In the case of a second and any further violation, the liabil-
48 ity shall be for a civil penalty not to exceed twenty-five thousand
49 dollars for each violation.

50 2. If the department has reason to believe that a covered product
51 contains regulated perfluoroalkyl and polyfluoroalkyl substances and is
52 being distributed, sold, or offered for sale in violation of this
53 section, the department shall direct the manufacturer of the covered
54 product to, within thirty days:

1 (a) provide the department with independent, third-party laboratory
2 test results demonstrating that the covered product does not contain
3 regulated PFAS; or

4 (b) notify persons who sell that covered product in this state that
5 the sale of that covered product is prohibited in this state and provide
6 the department with a list of the names and addresses of those notified.

7 3. A distributor or retailer of a product, who is not also the
8 manufacturer of the product, shall not be held in violation of this
9 title if it can show that he or she relied in good faith on the certifi-
10 cate of compliance provided for in subdivision one of section 37-0405
11 of this title or the retailer received a notification pursuant to subdivi-
12 vision two of this section.

13 4. The department shall make information about any citation issued
14 pursuant to this section available to the public on its internet
15 website.

16 § 2. This act shall take effect immediately.