

# STATE OF NEW YORK

4739

2019-2020 Regular Sessions

## IN ASSEMBLY

February 5, 2019

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

AN ACT to amend the environmental conservation law, in relation to the use of perfluoroalkyl and polyfluoroalkyl chemicals in food packaging

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

1 Section 1. Subdivision 2 of section 37-0203 of the environmental  
2 conservation law, as added by chapter 286 of the laws of 1990, is  
3 amended and two new subdivisions 5 and 6 are added to read as follows:

4 2. "Manufacturer" shall mean a person, firm, association, partnership,  
5 organization, joint venture or corporation, who or which makes contain-  
6 ers to be used to package products.

7 5. "Food package" means a package or packaging component that is  
8 intended for direct food contact and is comprised, in substantial part,  
9 of paper, paperboard, or other materials originally derived from plant  
10 fibers.

11 6. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS chemicals"  
12 means, for the purposes of food packaging, a class of fluorinated organ-  
13 ic chemicals containing at least one fully fluorinated carbon atom.

14 § 2. Sections 37-0209, 37-0211 and 37-0213 of the environmental  
15 conservation law are renumbered sections 37-0211, 37-0213 and 37-0215.

16 § 3. The environmental conservation law is amended by adding a new  
17 section 37-0209 to read as follows:

18 § 37-0209. Prohibition on the use of perfluoroalkyl and polyfluoroalkyl  
19 chemicals in food packaging.

20 No person may manufacture, knowingly sell, offer for sale, distribute  
21 for sale, or distribute for use in this state food packaging in which  
22 perfluoroalkyl and polyfluoroalkyl (PFAS) chemicals are present in any  
23 amount.

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

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1 § 4. Subdivision 2 of section 37-0211 of the environmental conserva-  
2 tion law, as added by chapter 286 of the laws of 1990, such section as  
3 renumbered by section two of this act, is amended to read as follows:

4 2. (a) No manufacturer or distributor of a product shall be held in  
5 violation of this title who can show that, in the purchase of a package  
6 or packaging component, he or she relied in good faith on the written  
7 assurance of the manufacturer of such packaging or packaging component  
8 that such packaging or packaging component met the requirements of this  
9 title. Such written assurance shall take the form of a certificate of  
10 compliance stating that a package or packaging component is in compli-  
11 ance with the requirements of this title, provided however, where  
12 compliance is achieved under an exemption provided in subdivision two or  
13 three of section 37-0207 of this title, the certificate shall state the  
14 specific basis upon which the exemption is claimed. The certificate of  
15 compliance shall be signed by an authorized official of the manufactur-  
16 ing or distributing company.

17 (b) With respect to the prohibition on the use of perfluoroalkyl and  
18 polyfluoroalkyl chemicals in food packaging as provided in section  
19 37-0209 of this title, a manufacturer shall develop a compliance certifi-  
20 cate by the date of a prohibition taking effect under such section.

21 (c) If the manufacturer or supplier of the package or packaging compo-  
22 nent reformulates or creates a new package or packaging component, the  
23 manufacturer shall develop an amended or new certificate of compliance  
24 for the reformulated or new package or packaging component.

25 § 5. This act shall take effect immediately. Effective immediately,  
26 the addition, amendment and/or repeal of any rule or regulation neces-  
27 sary for the implementation of this act on its effective date are  
28 authorized and directed to be made and completed on or before such  
29 effective date.