

# STATE OF NEW YORK

10620

## IN ASSEMBLY

July 6, 2022

Introduced by COMMITTEE ON RULES -- (at request of 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 Assembly, 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:

### TITLE IV

#### PRODUCTS CONTAINING PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES

##### Section 37-0401. Definitions.

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

7 37-0405. Required notification.

8 37-0407. Violations.

##### § 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.

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

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

LBD15175-02-2

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

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

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

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

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

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

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

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

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

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

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

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

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

55 11. "Textile" means any item made in whole or in part from a natural,  
56 man-made, or synthetic fiber, yarn, or fabric. Textile includes, but is

1 not limited to, the following: leather, cotton, silk, jute, hemp, wool,  
2 viscose, nylon, or polyester.

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

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

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

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

18 § 37-0403. Prohibition on sale of covered products.

19 1. Commencing on January first, two thousand twenty-four, no person  
20 shall distribute, sell, or offer for sale in the state any covered prod-  
21 uct that contains regulated perfluoroalkyl and polyfluoroalkyl  
22 substances.

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

25 § 37-0405. Required notification.

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

34 2. If regulated perfluoroalkyl or polyfluoroalkyl or PFAS are discov-  
35 ered in the covered product after the issuance of the certificate of  
36 compliance, the manufacturer shall recall the covered product and reim-  
37 burse the distributor or retailer for the covered product.

38 § 37-0407. Violations.

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

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

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

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

1     3. A distributor or retailer of a product, who is not also the  
2 manufacturer of the product, shall not be held in violation of this  
3 title if it can show that he or she relied in good faith on the certif-  
4 icate of compliance provided for in subdivision one of section 37-0405  
5 of this title or the retailer received a notification pursuant to subdi-  
6 vision two of this section.

7     4. The department shall make information about any citation issued  
8 pursuant to this section available to the public on its internet  
9 website.

10     § 2. This act shall take effect immediately.