

STATE OF NEW YORK

992--B

Cal. No. 337

2023-2024 Regular Sessions

IN SENATE

January 9, 2023

Introduced by Sens. HOYLMAN-SIGAL, BROUK, MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

AN ACT to amend the environmental conservation law, in relation to prohibiting the sale and distribution of anti-fogging sprays and wipes containing perfluoroalkyl and polyfluoroalkyl substances

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 11 to read as follows:

3 TITLE 11

4 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES IN ANTI-FOGGING PRODUCTS

5 Section 37-1101. Definitions.

6 37-1103. Applicability.

7 37-1105. Prohibition on the sale and distribution of anti-fog-
8 ging sprays and wipes containing perfluoroalkyl and
9 polyfluoroalkyl substances.

10 37-1107. Product labeling.

11 37-1109. Preemption.

12 37-1111. Rules and regulations.

13 37-1113. Violations.

14 § 37-1101. Definitions.

15 As used in this title:

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

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1 1. "Anti-fogging sprays and wipes" means any product, including a
2 spray, cloth, wipe or other material, that is intended to prevent
3 condensation on eyeglasses.

4 2. "Distributor" means a person, firm, association, partnership or
5 corporation, who or which imports or causes to be imported into the
6 state, any product containing PFAS substances.

7 3. "Intentionally added chemical" shall have the same meaning as
8 subdivision eleven of section 37-0901 of this article.

9 4. "Manufacturer" means a person, firm, association, partnership or
10 corporation, who or which makes products containing PFAS substances.

11 5. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS
12 substances" means a class of fluorinated organic chemicals containing at
13 least one fully fluorinated carbon atom.

14 6. "Person" means a natural person, corporation, company, partnership,
15 trust or association.

16 § 37-1103. Applicability.

17 The provisions of this title shall apply to the distribution, sale,
18 offer for sale or offer for distribution of products containing perfluoro-
19 alkyl and polyfluoroalkyl substances on or after the effective date of
20 this title.

21 § 37-1105. Prohibition on the sale and distribution of anti-fogging
22 sprays and wipes containing perfluoroalkyl and polyfluoro-
23 alkyl substances.

24 No person shall distribute, sell, offer for sale or offer for distrib-
25 ution in this state anti-fogging sprays and wipes containing perfluoro-
26 alkyl and polyfluoroalkyl substances as intentionally added chemicals.

27 § 37-1107. Product labeling.

28 The commissioner may authorize product labeling of products that do
29 not contain perfluoroalkyl and polyfluoroalkyl substances regulated
30 pursuant to the provisions of this title. The label on such products may
31 prominently state "perfluoroalkyl and polyfluoroalkyl-free" or
32 "PFAS-Free" to inform consumers that the product does not contain
33 perfluoroalkyl and polyfluoroalkyl substances.

34 § 37-1109. Preemption.

35 To the extent not inconsistent with federal law, jurisdiction in all
36 matters pertaining to products containing perfluoroalkyl and polyfluoro-
37 alkyl substances which are regulated pursuant to the provisions of this
38 title shall be vested exclusively in the state.

39 § 37-1111. Rules and regulations.

40 The commissioner shall have the power to adopt rules and regulations
41 to provide for the effective application and enforcement of this title.

42 § 37-1113. Violations.

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

49 2. No person shall be held in violation of this title if such person
50 can show that, in the purchase of a product from a manufacturer or
51 distributor, such person relied in good faith on the written assurance
52 of the manufacturer or distributor of such product that such product met
53 the requirements of this title. Such written assurance shall take such
54 form as shall be prescribed by the department by regulation.

55 § 2. Severability. If any clause, sentence, paragraph, subdivision or
56 section of this act shall be adjudged by any court of competent juris-

1 diction to be invalid, such judgment shall not affect, impair, or inval-
2 idate the remainder thereof, but shall be confined in its operation to
3 the clause, sentence, paragraph, subdivision, section or part thereof
4 directly involved in the controversy in which such judgment shall have
5 been rendered. It is hereby declared to be the intent of the legislature
6 that this act would have been enacted even if such invalid provisions
7 had not been included herein.

8 § 3. This act shall take effect December 31, 2025. Effective imme-
9 diately, the addition, amendment and/or repeal of any rule or regulation
10 necessary for the implementation of this act on its effective date are
11 authorized to be made and completed on or before such effective date.