

STATE OF NEW YORK

5363

2023-2024 Regular Sessions

IN ASSEMBLY

March 7, 2023

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

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 Assem-
bly, 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

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:

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

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

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

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

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

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

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

8 § 37-1103. Applicability.

9 The provisions of this title shall apply to the distribution, sale,
10 offer for sale or offer for distribution of products containing perfluoro-
11 alkyl and polyfluoroalkyl substances on or after the effective date of
12 this title.

13 § 37-1105. Prohibition on the sale and distribution of anti-fogging
14 sprays and wipes containing perfluoroalkyl and polyfluoro-
15 alkyl substances.

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

19 § 37-1107. Product labeling.

20 The commissioner may authorize product labeling of products that do
21 not contain perfluoroalkyl and polyfluoroalkyl substances regulated
22 pursuant to the provisions of this title. The label on such products may
23 prominently state "perfluoroalkyl and polyfluoroalkyl-free" or
24 "PFAS-Free" to inform consumers that the product does not contain
25 perfluoroalkyl and polyfluoroalkyl substances.

26 § 37-1109. Preemption.

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

31 § 37-1111. Rules and regulations.

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

34 § 37-1113. Violations.

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

41 2. No person shall be held in violation of this title if such person
42 can show that, in the purchase of a product from a manufacturer or
43 distributor, such person relied in good faith on the written assurance
44 of the manufacturer or distributor of such product that such product met
45 the requirements of this title. Such written assurance shall take such
46 form as shall be prescribed by the department by regulation.

47 § 2. Severability. If any clause, sentence, paragraph, subdivision or
48 section of this act shall be adjudged by any court of competent juris-
49 isdiction to be invalid, such judgment shall not affect, impair, or inval-
50 idate the remainder thereof, but shall be confined in its operation to
51 the clause, sentence, paragraph, subdivision, section or part thereof
52 directly involved in the controversy in which such judgment shall have
53 been rendered. It is hereby declared to be the intent of the legislature
54 that this act would have been enacted even if such invalid provisions
55 had not been included herein.

1 § 3. This act shall take effect December 31, 2023. Effective imme-
2 diately, the addition, amendment and/or repeal of any rule or regulation
3 necessary for the implementation of this act on its effective date are
4 authorized and directed to be made and completed on or before such
5 effective date.