

STATE OF NEW YORK

5363--B

2023-2024 Regular Sessions

IN ASSEMBLY

March 7, 2023

Introduced by M. of A. GALLAGHER, FAHY, THIELE, STERN, GONZALEZ-ROJAS, JACOBSON, LEVENBERG, SIMON, SIMONE, L. ROSENTHAL, COLTON, REYES, SHIMSKY, RAGA, CLARK, SEAWRIGHT, FORREST -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

Section 1. The environmental conservation law is amended by adding a new section 37-0123 to read as follows:

§ 37-0123. Prohibitions against the sale of anti-fogging sprays or wipes containing perfluoroalkyl and polyfluoroalkyl substances.

1. For the purposes of this section, the following terms shall have the following meanings:

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

(b) "Intentionally added chemical" means a chemical in a product that serves an intended function or technical effect in the product or product component, including the PFAS within intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product or product component.

(c) "Manufacturer" means a person, firm, association, partnership or corporation:

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

LBD04073-12-4

1 (i) that makes or whose brand name is affixed to anti-fogging sprays
2 or wipes; or

3 (ii) in the case of anti-fogging sprays or wipes that were imported
4 into the United States, "manufacturer" means the importer or first
5 domestic distributor of such anti-fogging sprays or wipes if no person
6 who is a manufacturer within the meaning of subparagraph (i) of this
7 paragraph has a presence in the United States.

8 (d) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS
9 substances" means a class of fluorinated organic chemicals containing at
10 least one fully fluorinated carbon atom.

11 2. No person shall sell or offer for sale in this state anti-fogging
12 sprays or wipes containing perfluoroalkyl and polyfluoroalkyl substances
13 as intentionally added chemicals.

14 3. No person that sells or offers for sale any anti-fogging sprays or
15 wipes shall be held in violation of this title if they can show that
16 they relied in good faith on the written assurance of the manufacturer
17 of such product that such product met the requirements of this section.
18 Such written assurance shall take the form of a certificate of compli-
19 ance stating that such product is in compliance with the requirements
20 of this section. The certificate of compliance shall be signed by an
21 authorized official of the manufacturer.

22 4. In addition to any other applicable penalties, it shall be a
23 violation of this section to provide a certificate of compliance as
24 contemplated by subdivision three of this section when the applicable
25 anti-fogging sprays or wipes do not satisfy the prohibitions on the
26 presence of perfluoroalkyl and polyfluoroalkyl substances set forth in
27 subdivision two of this section.

28 § 2. Section 71-3703 of the environmental conservation law is amended
29 by adding a new subdivision 7 to read as follows:

30 7. Any person who violates any of the provisions of, or who fails to
31 perform any duty imposed by section 37-0123 of this chapter or any rule
32 or regulation promulgated pursuant thereto, shall be liable for a civil
33 penalty not to exceed one thousand dollars for each day during which
34 such violation continues, and in addition thereto, such person may be
35 enjoined from continuing such violation. Such person shall for a second
36 violation be liable to the people of the state for a civil penalty not
37 to exceed two thousand five hundred dollars for each day during which
38 such violation continues.

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