

SENATE BILL 273

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SB 195/21 – EHE

2lr1319
CF HB 275

By: **Senators Elfreth, Beidle, Lam, and Bailey**

Introduced and read first time: January 17, 2022

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – PFAS Chemicals – Prohibitions and Requirements**
3 **(George “Walter” Taylor Act)**

4 FOR the purpose of altering certain provisions of law establishing a certain prohibition on
5 certain uses of certain fire-fighting foam by prohibiting, on or after a certain date, a
6 person from using, manufacturing, or knowingly selling, offering for sale, or
7 distributing for sale or use certain fire-fighting foam in the State, subject to certain
8 exceptions; prohibiting a certain person from releasing certain foam into the
9 environment in a certain manner and requiring the person to take certain actions
10 and maintain certain documentation; providing for the process for the Department
11 of the Environment, the Attorney General, the State’s Attorney for a county or
12 Baltimore City, a county attorney, or a City Attorney to obtain certain compliance
13 information; providing that a failure to meet certain requirements does not preclude
14 certain use of a certain foam under certain circumstances; establishing requirements
15 that apply to the sale of certain personal protective equipment that contains PFAS
16 chemicals; prohibiting a person from disposing of a certain foam in a certain manner;
17 prohibiting a certain person, on or after a certain date, from manufacturing, selling,
18 offering for sale, or distributing for sale or use in the State a certain rug or carpet to
19 which PFAS chemicals have been intentionally added for certain purposes;
20 prohibiting a certain manufacturer or distributor, on or after a certain date, from
21 manufacturing, selling, offering for sale, or distributing for sale or use in the State a
22 certain food package or food packaging component to which PFAS chemicals have
23 been intentionally added; requiring the Department of the Environment and the
24 Maryland Department of Health jointly to prepare, in coordination with certain
25 entities, and submit to the General Assembly a certain PFAS Action Plan; and
26 generally relating to PFAS chemicals.

27 BY repealing and reenacting, with amendments,
28 Article – Environment
29 Section 6–1601 and 6–1603
30 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2013 Replacement Volume and 2021 Supplement)

2 BY repealing

3 Article – Environment

4 Section 6–1602 and 6–1604

5 Annotated Code of Maryland

6 (2013 Replacement Volume and 2021 Supplement)

7 BY adding to

8 Article – Environment

9 Section 6–1602, 6–1604, and 6–1604.1

10 Annotated Code of Maryland

11 (2013 Replacement Volume and 2021 Supplement)

12 BY repealing and reenacting, without amendments,

13 Article – Environment

14 Section 6–1605

15 Annotated Code of Maryland

16 (2013 Replacement Volume and 2021 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Environment

19 Section 9–1901 through 9–1905

20 Annotated Code of Maryland

21 (2014 Replacement Volume and 2021 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

23 That the Laws of Maryland read as follows:

24 **Article – Environment**

25 6–1601.

26 (a) In this subtitle the following words have the meanings indicated.

27 (b) “Class B fire-fighting foam” OR “FOAM” means a foam designed for
28 flammable liquid fire.

29 (c) “**INTENTIONALLY ADDED**” MEANS THE ACT OF DELIBERATELY USING A
30 CHEMICAL IN THE FORMATION OF A PRODUCT WHERE THE CHEMICAL’S CONTINUED
31 PRESENCE IS DESIRED IN THE PRODUCT TO PROVIDE A SPECIFIC CHARACTERISTIC.

32 (d) “**PERSONAL PROTECTIVE EQUIPMENT**” MEANS ITEMS DESIGNED,
33 INTENDED, OR MARKETED TO BE WORN BY FIRE-FIGHTING PERSONNEL IN THE
34 PERFORMANCE OF THEIR FIRE AND RESCUE ACTIVITIES, INCLUDING JACKETS,
35 PANTS, SHOES, GLOVES, HELMETS, AND RESPIRATORY EQUIPMENT.

1 **[(c)] (E)** “PFAS chemicals” means a class of fluorinated organic chemicals that[:

2 (1) **Contain] CONTAIN** at least one fully fluorinated carbon atom, including
3 perfluoroalkyl and polyfluoroalkyl substances[; and

4 (2) Are designed to be fully functional in Class B fire-fighting foam
5 formulations].

6 **(F) “RUG OR CARPET” MEANS A THICK FABRIC USED TO COVER A FLOOR,**
7 **INCLUDING:**

8 **(1) COMMERCIAL OR RESIDENTIAL BROADLOOM CARPET; AND**

9 **(2) A PAD OR AN UNDERLAYMENT USED IN CONJUNCTION WITH A**
10 **CARPET.**

11 **[6-1602.**

12 (a) This subtitle does not apply to fire-fighting foams used at the
13 Baltimore-Washington International Thurgood Marshall Airport.

14 (b) This subtitle does not restrict:

15 (1) The manufacture, sale, or distribution of Class B fire-fighting foam
16 that contains intentionally added PFAS chemicals; or

17 (2) The discharge or other use of Class B fire-fighting foam that contains
18 intentionally added PFAS chemicals in emergency fire-fighting or fire prevention
19 operations.]

20 **6-1602.**

21 **THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.**

22 **6-1603.**

23 **(A) [On or after October 1, 2021,] EXCEPT AS PROVIDED IN SUBSECTION (B)**
24 **OF THIS SECTION, ON OR AFTER JANUARY 1, 2023, A PERSON MAY NOT USE,**
25 **MANUFACTURE, OR KNOWINGLY SELL, OFFER FOR SALE, OR DISTRIBUTE FOR SALE**
26 **OR USE** Class B fire-fighting foam that contains intentionally added PFAS chemicals [may
27 not be used for:

28 (1) Testing purposes, including calibration testing, conformance testing,
29 and fixed-system testing unless:

1 (i) The use is required by law or by the agency having jurisdiction
2 over the testing facility; and

3 (ii) The testing facility has implemented appropriate containment,
4 treatment, and disposal measures to prevent releases of foam into the environment; or

5 (2) Training purposes] IN THE STATE.

6 (B) (1) A PERSON THAT IS AUTHORIZED UNDER FEDERAL LAW TO USE
7 CLASS B FIRE-FIGHTING FOAM THAT CONTAINS INTENTIONALLY ADDED PFAS
8 CHEMICALS:

9 (I) MAY NOT RELEASE THE FOAM DIRECTLY INTO THE
10 ENVIRONMENT, INCLUDING THROUGH UNSEALED GROUND, SOAKAGE PITS,
11 WATERWAYS, OR UNCONTROLLED DRAINS; AND

12 (II) SHALL:

13 1. FULLY CONTAIN ALL RELEASES ON SITE;

14 2. IMPLEMENT CONTAINMENT MEASURES, INCLUDING
15 BUNDS AND PONDS, THAT ARE CONTROLLED AND IMPERVIOUS TO PFAS
16 CHEMICALS AND DO NOT ALLOW FIREWATER, WASTEWATER, RUNOFF, AND OTHER
17 WASTES TO BE RELEASED INTO THE ENVIRONMENT, INCLUDING SOILS,
18 GROUNDWATER, WATERWAYS, AND STORMWATER;

19 3. DISPOSE OF ALL FIREWATER, WASTEWATER, RUNOFF,
20 AND OTHER WASTES IN A WAY THAT PREVENTS RELEASES INTO THE ENVIRONMENT;

21 4. WITHIN 5 DAYS AFTER A RELEASE IN VIOLATION OF
22 ITEM (I) OF THIS PARAGRAPH, REPORT THE RELEASE TO THE DEPARTMENT,
23 INCLUDING INFORMATION ON THE IDENTITY OF THE FOAM, THE QUANTITY USED,
24 THE TOTAL PFAS CONCENTRATION, AND THE FORM OF ANY WASTE THAT CONTAINS
25 PFAS CHEMICALS; AND

26 5. MAINTAIN DOCUMENTATION ON ANY MEASURES
27 TAKEN UNDER THIS PARAGRAPH.

28 (2) (I) IN INVESTIGATING COMPLIANCE WITH THIS SUBSECTION,
29 THE DEPARTMENT, THE ATTORNEY GENERAL, A STATE'S ATTORNEY FOR A COUNTY
30 OR BALTIMORE CITY, A COUNTY ATTORNEY, OR A CITY ATTORNEY MAY REQUEST
31 DOCUMENTATION MAINTAINED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

1 **(II) A PERSON THAT RECEIVES A REQUEST UNDER**
2 **SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL PROVIDE THE DOCUMENTATION ON**
3 **REQUEST.**

4 **(3) A FAILURE TO MEET THE REQUIREMENTS OF PARAGRAPH (1) OR**
5 **(2) OF THIS SUBSECTION DOES NOT PRECLUDE THE USE OF CLASS B FIRE-FIGHTING**
6 **FOAM CONTAINING INTENTIONALLY ADDED PFAS CHEMICALS IF THE FAILURE WAS**
7 **A RESULT OF FACTORS BEYOND THE CONTROL OF THE PERSON.**

8 **(C) (1) IF A PERSON SELLS PERSONAL PROTECTIVE EQUIPMENT THAT**
9 **CONTAINS PFAS CHEMICALS IN THE STATE, THE PERSON SHALL PROVIDE WRITTEN**
10 **NOTICE TO THE PURCHASER AT THE TIME OF THE SALE THAT INCLUDES:**

11 **(I) A STATEMENT THAT THE PERSONAL PROTECTIVE**
12 **EQUIPMENT CONTAINS PFAS CHEMICALS; AND**

13 **(II) THE REASON THAT THE PERSONAL PROTECTIVE**
14 **EQUIPMENT CONTAINS PFAS CHEMICALS.**

15 **(2) BOTH THE PERSON SELLING PERSONAL PROTECTIVE EQUIPMENT**
16 **THAT CONTAINS PFAS CHEMICALS AND THE PURCHASER OF THE PERSONAL**
17 **PROTECTIVE EQUIPMENT SHALL RETAIN THE NOTICE UNDER PARAGRAPH (1) OF**
18 **THIS SUBSECTION FOR AT LEAST 3 YEARS AFTER THE DATE OF THE SALE.**

19 [6-1604.

20 Nonfluorinated training foam shall be used for purposes of fire-fighting training.]

21 **6-1604.**

22 **A PERSON MAY NOT DISPOSE OF A CLASS B FIRE-FIGHTING FOAM THAT**
23 **CONTAINS INTENTIONALLY ADDED PFAS CHEMICALS:**

24 **(1) USING INCINERATION, INCLUDING BY BURNING, COMBUSTION,**
25 **PYROLYSIS, GASIFICATION, THERMAL OXIDATION, ACID RECOVERY FURNACE OR**
26 **OXIDIZER, ORE ROASTER, CEMENT KILN, LIGHTWEIGHT AGGREGATE KILN,**
27 **INDUSTRIAL FURNACE BOILER, AND PROCESS HEATER; OR**

28 **(2) IN A LANDFILL.**

29 **6-1604.1.**

1 **(A) THIS SECTION DOES NOT APPLY TO THE SALE OR RESALE OF A USED RUG**
2 **OR CARPET.**

3 **(B) ON OR AFTER JANUARY 1, 2023, A PERSON MAY NOT MANUFACTURE,**
4 **SELL, OFFER FOR SALE, OR DISTRIBUTE FOR SALE OR USE IN THE STATE A RUG OR**
5 **CARPET TO WHICH PFAS CHEMICALS HAVE BEEN INTENTIONALLY ADDED.**

6 **(C) (1) A PERSON THAT MANUFACTURES, SELLS, OFFERS FOR SALE, OR**
7 **DISTRIBUTES FOR SALE OR USE IN THE STATE A RUG OR CARPET SHALL ESTABLISH**
8 **A CERTIFICATE OF COMPLIANCE TO ATTEST THAT THE RUG OR CARPET IS IN**
9 **COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.**

10 **(2) WITHIN 30 DAYS AFTER A REQUEST BY THE DEPARTMENT, A**
11 **PERSON SHALL PROVIDE THE CERTIFICATE OF COMPLIANCE ESTABLISHED UNDER**
12 **PARAGRAPH (1) OF THIS SUBSECTION TO THE DEPARTMENT.**

13 6–1605.

14 A person who violates this subtitle is subject to:

15 (1) For a first violation, a civil penalty not exceeding \$500; and

16 (2) For a second or subsequent violation, a civil penalty not exceeding
17 \$1,000.

18 9–1901.

19 (a) In this subtitle the following words have the meanings indicated.

20 (b) “Distributor” means any person that:

21 (1) Sells a packaged product to a retailer; or

22 (2) Receives a shipment or consignment of, or in any other manner
23 acquires, packaged products for distribution to a retailer for:

24 (i) Sale to a consumer; or

25 (ii) Promotional purposes.

26 **(C) “FOOD PACKAGE” MEANS A PACKAGE THAT IS DESIGNED FOR DIRECT**
27 **FOOD CONTACT, INCLUDING:**

28 **(1) A FOOD OR BEVERAGE PRODUCT THAT IS CONTAINED IN A FOOD**
29 **PACKAGE OR TO WHICH A FOOD PACKAGE IS APPLIED;**

1 **(2) A PACKAGING COMPONENT OF A FOOD PACKAGE; AND**

2 **(3) PLASTIC DISPOSABLE GLOVES USED IN COMMERCIAL OR**
3 **INSTITUTIONAL FOOD SERVICE.**

4 **(D) “INTENTIONALLY ADDED” MEANS THE ACT OF DELIBERATELY USING A**
5 **CHEMICAL IN THE FORMATION OF A PACKAGE OR PACKAGING COMPONENT WHEN**
6 **THE CHEMICAL’S CONTINUED PRESENCE IS DESIRED IN THE FINAL PACKAGE OR**
7 **PACKAGING COMPONENT TO PROVIDE A SPECIFIC CHARACTERISTIC.**

8 **[(c)] (E) (1) “Manufacturer” means any person that manufactures a package**
9 **or packaging component.**

10 (2) “Manufacturer” includes any person that sells a package or packaging
11 component to a distributor.

12 **[(d)] (F) (1) “Package” means a container used to market, protect, or handle**
13 **a product.**

14 (2) “Package” includes:

15 (i) A unit package, an intermediate package, and a shipping
16 container as defined by the American Society for Testing and Materials; and

17 (ii) An unsealed receptacle such as a carrying case, crate, cup, pail,
18 rigid foil or other tray, wrap, wrapping film, bag, and tub.

19 **[(e)] (G) (1) “Packaging component” means any individual assembled part of**
20 **a package.**

21 (2) “Packaging component” includes any interior or exterior blocking,
22 bracing, cushioning, weatherproofing, coating, closure, label, ink, dye, pigment, adhesive,
23 or any other additive.

24 (3) “Packaging component” does not include any package or packaging
25 component that contains cadmium and is intended for reuse more than 5 times.

26 **(H) “PFAS CHEMICALS” MEANS A CLASS OF FLUORINATED ORGANIC**
27 **CHEMICALS THAT CONTAIN AT LEAST ONE FULLY FLUORINATED CARBON ATOM,**
28 **INCLUDING PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES.**

29 9–1902.

30 (a) Except as provided in §§ 9–1903 and 9–1904 of this subtitle, on or after July
31 1, 1993, a manufacturer or distributor may not sell or offer for sale or for promotional

1 purposes any package or packaging component or any product in a package or packaging
2 component to which any of the following was intentionally added during manufacture or
3 distribution:

- 4 (1) Lead;
- 5 (2) Cadmium;
- 6 (3) Mercury; or
- 7 (4) Hexavalent chromium.

8 (b) The sum of the concentration levels of lead, cadmium, mercury, and
9 hexavalent chromium incidentally present in a package or packaging component may not
10 exceed:

- 11 (1) By July 1, 1993, 600 parts per million by weight or 0.06%;
- 12 (2) By July 1, 1994, 250 parts per million by weight or 0.025%; and
- 13 (3) By July 1, 1995, 100 parts per million by weight or 0.01%.

14 (c) Tin plated steel that meets the American Society for Testing and Materials
15 Specification A-623 shall be considered a single packaging component.

16 **(D) ON OR AFTER JANUARY 1, 2023, A MANUFACTURER OR DISTRIBUTOR**
17 **MAY NOT MANUFACTURE, SELL, OFFER FOR SALE, OR DISTRIBUTE FOR SALE OR USE**
18 **IN THE STATE A FOOD PACKAGE OR FOOD PACKAGING COMPONENT TO WHICH PFAS**
19 **CHEMICALS WERE INTENTIONALLY ADDED.**

20 9-1903.

21 The provisions of **§ 9-1902(A) THROUGH (C) OF** this subtitle do not apply to:

22 (1) If it contains a code indicating the date of manufacture, a package or
23 packaging component that was manufactured prior to July 1, 1993;

24 (2) Until July 1, 1997, a package and packaging component that would not
25 exceed the concentration levels set forth in § 9-1902 of this subtitle but for the addition of
26 recycled materials;

27 (3) A package or packaging component conditionally exempt under §
28 9-1904 of this subtitle; and

29 (4) Any alcoholic beverage bottled before October 1, 1992.

30 9-1904.

1 (a) A manufacturer or distributor of a package or packaging component may
2 submit to the Department an application for a conditional exemption from the provisions
3 of **§ 9-1902(A) THROUGH (C) OF** this subtitle.

4 (b) On the written application of a manufacturer or distributor, the Department
5 may grant a conditional exemption if the Department finds that:

6 (1) In order to comply with a health or safety requirement of federal law,
7 lead, cadmium, mercury, or hexavalent chromium have been added to the package or
8 packaging component in the manufacturing, forming, printing, or distribution process; or

9 (2) The regulated substance is essential to the protection, safe handling, or
10 function of the package contents.

11 (c) A conditional exemption granted under this section:

12 (1) Expires 2 years after the date the Department grants the exemption;
13 and

14 (2) If the manufacturer or distributor meets the criteria under subsection
15 (b) of this section, may be renewed for additional periods of 2 years.

16 9-1905.

17 (a) To enforce the provisions of this subtitle, the Department may:

18 (1) Notify a manufacturer that there are grounds for suspecting that a
19 package or packaging component produced by the manufacturer may not be in compliance
20 with the provisions of this subtitle; and

21 (2) Request the manufacturer to certify that the package or packaging
22 component is in compliance, **INCLUDING BY REQUESTING THE MANUFACTURER'S**
23 **CERTIFICATE OF COMPLIANCE ESTABLISHED UNDER SUBSECTION (C) OF THIS**
24 **SECTION.**

25 (b) If the manufacturer certifies that the package or packaging component is
26 exempt under § 9-1903 of this subtitle, the manufacturer shall identify the specific basis
27 on which the exemption is claimed.

28 **(C) (1) A MANUFACTURER OR DISTRIBUTOR THAT MANUFACTURES,**
29 **SELLS, OFFERS FOR SALE, OR DISTRIBUTES FOR USE IN THE STATE A FOOD PACKAGE**
30 **OR FOOD PACKAGING COMPONENT SHALL ESTABLISH A CERTIFICATE OF**
31 **COMPLIANCE TO ATTEST THAT THE FOOD PACKAGE OR FOOD PACKAGING**
32 **COMPONENT IS IN COMPLIANCE WITH THE REQUIREMENTS OF § 9-1902(D) OF THIS**
33 **SUBTITLE.**

1 **(2) WITHIN 30 DAYS AFTER A REQUEST BY THE DEPARTMENT, A**
2 **MANUFACTURER SHALL PROVIDE THE CERTIFICATE OF COMPLIANCE ESTABLISHED**
3 **UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE DEPARTMENT.**

4 **[(c)] (D)** If the manufacturer **OR DISTRIBUTOR** fails to certify that the package
5 or packaging component is in compliance or is exempt, the Department may seek an
6 injunction under § 9–1906 of this subtitle to require the manufacturer **OR DISTRIBUTOR**
7 to withdraw the package or packaging component in question from sale or promotional use
8 within the State.

9 SECTION 2. AND BE IT FURTHER ENACTED, That:

10 (a) On or before December 31, 2022, the Department of the Environment shall
11 report to the General Assembly, in accordance with § 2–1257 of the State Government
12 Article, on:

13 (1) the location and results of any testing for PFAS chemicals, as defined
14 in § 6–1601 of the Environment Article, that the Department has conducted on waters of
15 the State;

16 (2) any plan the Department has for further testing for PFAS chemicals in
17 waters of the State; and

18 (3) any plan the Department has for remediation and public education in
19 areas where the water has been found to be contaminated by PFAS chemicals.

20 (b) On or before December 31, 2023, the Department of the Environment and the
21 Maryland Department of Health jointly shall prepare, in coordination with other relevant
22 State agencies, the federal government, local governments, and the public, and submit to
23 the General Assembly, in accordance with § 2–1257 of the State Government Article, a
24 PFAS Action Plan to identify strategies, actions, and funding alternatives to:

25 (1) minimize environmental exposure to PFAS chemicals for Maryland
26 residents, in addition to regulating its use in fire–fighting foam, food packaging and food
27 packaging components, rugs, and carpets;

28 (2) minimize future releases of PFAS chemicals into the environment;

29 (3) identify, assess, and clean up historical releases of PFAS chemicals in
30 Maryland;

31 (4) assess any concerns related to environmental justice, health equity, and
32 PFAS chemical contamination; and

1 (5) educate and communicate to Maryland residents the risks associated
2 with PFAS chemicals.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
4 1, 2022.