



LEGISLATIVE POSITION: UNFAVORABLE

Senate Bill 273

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

Senate Committee on Education, Health, and Environmental Affairs

February 2, 2022

The Honorable Paul Pinsky, Chair, Senate Committee on Education, Health, and Environmental Affairs
The Honorable Cheryl Kagan, Vice Chair, Senate Committee on Education, Health, and Environmental Affairs

Dear Chair Pinsky, Vice Chair Wilson, and Members of the Committee:

The American Forest & Paper Associationⁱ (AF&PA) appreciates the opportunity to share our perspective on Senate Bill 273 on behalf of our members and their employees who are an integral part of the circular economy. In Maryland, the forest products industry employs nearly 6,000 individuals in facilities that produce packaging, sales displays, corrugated boxes and other products with an annual payroll of over \$374 million.ⁱⁱ

Senate Bill 273 seeks to ban food packaging that contains any amount or type of intentionally-added PFAS. AF&PA would like to weigh-in specifically on the food packaging language; we do not offer a position on the firefighting foam or floor coverings sections of the bill. During the previous session, our industry offered several amendments to similar pieces of PFAS legislation (SB 195 and HB 22). Unfortunately, it appears some of our constructive language regarding compliance time extension and the definitions of “intentionally-added” and “food packaging” was not incorporated into this bill. Therefore, we must oppose SB 273.

Please find attached to this letter our previous amendment language regarding the following issues outlined in greater detail below:

1. Extend the compliance time
2. Amend the definition of “intentionally-added” for consistency with other state and federal standards and set a de minimis amount for clarity
3. Amend the definition of food package to not include the food or beverage product but just the food packaging itself

AF&PA Members’ Commitment to Safe Chemistry

AF&PA members are committed to ensuring the safety of their products, including the safety of chemicals used in their manufacturing processes. AF&PA believes chemical and product-related legislation and regulations should be protective of health, cost-effective and based on the best available science.

AF&PA member companies use only modern short-chain PFAS chemistries that have been reviewed and approved by the U.S. Food and Drug Administration (FDA) as safe for use in food packaging through the food contact notification process. These chemistries do not have toxicity profiles of the PFAS of concern -- PFOA and PFOS, which the FDA banned in 2016. Based on our knowledge of our members' practices, intentional use of FDA-approved PFAS in limited applications for grease and moisture resistance is nominal compared with the total production of paper products. Even for these remaining limited uses, there are ongoing efforts to find alternatives to PFAS.

1. Extend the compliance time.

AF&PA encourages extending the compliance period in SB 273 to January 1, 2024, to accommodate our industry's ongoing voluntary phase-out programs.

2. Amend the definition of "intentionally-added" for consistency with other state and federal standards and set a de minimis amount for clarity.

AF&PA encourages states to avoid duplicative and sometimes conflicting regulatory efforts. Chemicals in products should be regulated at the federal, not the state level. It is essential that products moving in interstate commerce be subject to uniform standards. The FDA is the proper agency to develop standards and ensure food packaging is safe.

3. Amend the definition of food package to include only the food packaging designed for direct food contact, and not the food or beverage product.

While the definition of food packaging in SB 273 covers packaging for direct food contact, it also includes overly broad language for food packaging that does not have direct food contact, including food and beverage products contained within a food package to which an additional food package is applied. We believe only packaging designed for direct food contact should be regulated under SB 273.

Conclusion

We encourage the Committee to avoid measures that would result in unintended consequences and penalize paper-based packaging. We look forward to continuing our work with the State of Maryland. For further information, please feel free to contact Stewart Holm, Chief Scientist, AF&PA at Stewart_Holm@afandpa.org or Elizabeth Olds, Manager, Government Affairs at Elizabeth_Olds@afandpa.org.

Recommended Amendments for MD HB 22 and SB 195

Bill text: <https://mgaleg.maryland.gov/2021RS/bills/hb/hb0022F.pdf>

Extend the compliance time

Page 9 lines 13-16

13 (D) ON OR AFTER January 1, 2024, A MANUFACTURER OR DISTRIBUTOR
14 MAY NOT MANUFACTURE, SELL, OFFER FOR SALE, OR DISTRIBUTE FOR SALE OR USE
15 IN THE STATE A FOOD PACKAGE OR ANY PRODUCT IN A FOOD PACKAGE TO WHICH
16 PFAS CHEMICALS WERE INTENTIONALLY ADDED.

Refine the definition of “Intentionally added”

Page 8 Lines 3-6

3 (D) “INTENTIONALLY ADDED” MEANS THE ACT OF DELIBERATELY USING A
4 CHEMICAL in any amount greater than an incidental presence IN THE FORMATION OF A PACKAGE OR
PACKAGING COMPONENT WHEN
5 ITS CONTINUED PRESENCE IS DESIRED IN THE FINAL PACKAGE OR PACKAGING
6 COMPONENT TO PROVIDE A SPECIFIC CHARACTERISTIC.

Amend the language to not include food in the definition of food packaging

Page 7 Lines 23- Page 8 Line 2

23 (C) “FOOD PACKAGE” MEANS A PACKAGE OR PACKAGING COMPONENT
24 THAT IS DESIGNED FOR DIRECT FOOD CONTACT, INCLUDING:
~~25 (1) A FOOD OR BEVERAGE PRODUCT THAT IS CONTAINED IN A FOOD
26 PACKAGE OR TO WHICH A FOOD PACKAGE IS APPLIED;~~
27 (2) A PACKAGING COMPONENT OF A FOOD PACKAGE; AND
1 (3) PLASTIC DISPOSABLE GLOVES USED IN COMMERCIAL OR
2 INSTITUTIONAL FOOD SERVICE.

ⁱ The American Forest & Paper Association (AF&PA) serves to advance U.S. paper and wood products manufacturers through fact-based public policy and marketplace advocacy. The forest products industry is circular by nature. AF&PA member companies make essential products from renewable and recycle resources, generate renewable bioenergy and are committed to continuous improvement through the industry’s sustainability initiative — [*Better Practices, Better Planet 2030: Sustainable Products for a Sustainable Future*](#). The forest products industry accounts for approximately four percent of the total U.S. manufacturing GDP, manufactures nearly \$300 billion in products annually and employs approximately 950,000 people. The industry meets a payroll of approximately \$60 billion annually and is among the top 10 manufacturing sector employers in 45 states.

ⁱⁱ Data sources: U.S. government, AF&PA, and RISI. Figures are the most recent available as of December 2020.