

SB0088



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0088

Introduced 1/20/2023, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

30 ILCS 500/45-26
415 ILCS 5/52.15 new

Provides that the amendatory Act may be referred to as the Perfluoroalkyl and Polyfluoroalkyl Chemicals Consumer Protection Law. Amends the Illinois Procurement Code. In provisions regarding environmentally preferable procurement, includes products that do not contain intentionally added PFAS chemicals in the definitions of "environmentally preferable supplies" and "environmentally preferable services". Amends the Environmental Protection Act. Provides that on and after specified dates, no person shall sell, offer for sale, distribute for sale, or distribute for use in the State specified products that contain intentionally added PFAS chemicals. Provides that on and after January 1, 2025, a PFAS manufacturer of cookware sold in the State that contains intentionally added PFAS chemicals in the handle of the product or in any product surface that comes into contact with food, foodstuffs, or beverages shall list the presence of PFAS chemicals on the product label and comply with other specified requirements. Contains exemptions from the requirements for specified cookware. On and after January 1, 2025, prohibits manufacturers from making a claim on cookware packaging that the cookware is free of any PFAS chemical, unless no individual PFAS chemical is intentionally added to the cookware. Contains notification requirements. Contains other provisions.

LRB103 04643 CPF 50348 b

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. This Act may be referred to as the PFAS Consumer
5 Protection Law.

6 Section 5. The Illinois Procurement Code is amended by
7 changing Section 45-26 as follows:

8 (30 ILCS 500/45-26)

9 Sec. 45-26. Environmentally preferable procurement.

10 (a) Definitions. For the purposes of this Section:

11 (1) "Supplies" means all personal property, including
12 but not limited to equipment, materials, printing, and
13 insurance, and the financing of those supplies.

14 (2) "Services" means the furnishing of labor, time, or
15 effort by a contractor, not involving the delivery of a
16 specific end product other than reports or supplies that
17 are incidental to the required performance.

18 (3) "Environmentally preferable supplies" means
19 supplies that are less harmful to the natural environment
20 and human health than substantially similar supplies for
21 the same purpose. Attributes of environmentally preferable
22 supplies include, but are not limited to, the following:

1 (i) made of recycled materials, to the maximum
2 extent feasible;

3 (ii) not containing, emitting, or producing
4 toxic substances, such as products that do not
5 contain intentionally added PFAS chemicals as that
6 term is defined in subsection (b) of Section 52.15
7 of the Environmental Protection Act;

8 (iii) constituted so as to minimize the
9 production of waste; and

10 (iv) constituted so as to conserve energy and
11 water resources over the course of production,
12 transport, intended use, and disposal.

13 (4) "Environmentally preferable services" means
14 services that are less harmful to the natural environment
15 and human health than substantially similar services for
16 the same purpose. Attributes of "environmentally
17 preferable services" include, but are not limited to, the
18 following:

19 (i) use of supplies made of recycled
20 materials, to the maximum extent feasible;

21 (ii) use of supplies that do not contain,
22 emit, or produce toxic substances, such as
23 products that do not contain intentionally added
24 PFAS chemicals as that term is defined in
25 subsection (b) of Section 52.15 of the
26 Environmental Protection Act;

1 (iii) employment of methods that minimize the
2 production of waste; and

3 (iv) employment of methods that conserve
4 energy and water resources or use energy and water
5 resources more efficiently than substantially
6 similar methods.

7 (b) Award of contracts for environmentally preferable
8 supplies or services. Notwithstanding any rule, regulation,
9 statute, order, or policy of any kind, with the exceptions of
10 Sections 45-20 and 45-25 of this Code, State agencies shall
11 contract for supplies and services that are environmentally
12 preferable.

13 If, however, contracting for an environmentally preferable
14 supply or service would impose an undue economic or practical
15 hardship on the contracting State agency, or if an
16 environmentally preferable supply or service cannot be used to
17 meet the requirements of the State agency, then the State
18 agency need not contract for an environmentally preferable
19 supply or service. Specifications for contracts, at the
20 discretion of the contracting State agency, may include a
21 price preference of up to 10% for environmentally preferable
22 supplies or services.

23 (Source: P.A. 96-197, eff. 1-1-10.)

24 Section 10. The Environmental Protection Act is amended by
25 adding Section 52.15 as follows:

1 (415 ILCS 5/52.15 new)

2 Sec. 52.15. Intentionally added PFAS chemicals; PFAS
3 manufacturers.

4 (a) The General Assembly finds:

5 (1) Contamination of the soil and water in the State
6 by PFAS chemicals poses a significant threat to the
7 State's environment and its residents.

8 (2) A growing body of scientific research has found
9 that exposure to PFAS chemicals may lead to serious and
10 harmful health effects.

11 (3) The full extent of the contamination of the soil
12 and water in the State by PFAS is not currently known and
13 additional expenditures will be required to identify and
14 remediate existing PFAS contamination.

15 (4) PFAS chemicals continue to be used in products
16 across a variety of industries and for many different
17 purposes.

18 (5) PFAS chemicals are not necessary in many products
19 and could be replaced with less harmful chemicals and
20 technologies.

21 (6) If the widespread sale and distribution of
22 products that contain intentionally added PFAS chemicals
23 continues in the State:

24 (A) there is a larger risk of PFAS chemicals
25 migrating into the natural environment;

1 (B) residents of the State will likely suffer
2 adverse health effects from exposure to PFAS chemicals;
3 and

4 (C) the State and units of local government will
5 be burdened with the testing, monitoring, and cleanup
6 costs necessary to protect residents from exposure to PFAS
7 chemicals.

8 (7) The General Assembly, therefore, declares that it
9 is imperative for the health and safety of the State's
10 residents to phase out, through regulation, the sale and
11 distribution of certain product categories in the State
12 that contain intentionally added PFAS chemicals.

13 (b) In this Section:

14 "Adult mattress" means a mattress product that is not a
15 crib mattress or toddler mattress.

16 "Apparel" means a clothing item intended for regular wear
17 or formal occasions, such as an undergarment, shirt, pants,
18 skirt, dress, overall, bodysuit, costume, vest, dancewear,
19 suit, sari, scarf, top, legging, school uniform, leisurewear,
20 athletic wear, sport uniform, everyday swimwear, formal wear,
21 onesie, bib, diaper, footwear, and everyday workwear uniform.

22 "Apparel" does not include professional uniforms or outerwear
23 intended for extreme conditions.

24 "Carpet or rug" means a fabric product marketed or
25 intended for use as a floor covering in a household or
26 business.

1 "Consumer" means the end user of a product.

2 "Cookware" means a durable houseware product that is used
3 in residences or kitchens to prepare, dispense, or store food
4 or beverages. "Cookware" includes pots, pans, skillets,
5 grills, baking sheets, baking molds, trays, bowls, and cooking
6 utensils.

7 "Cosmetic" means a product intended to be rubbed or
8 introduced into, poured, sprinkled, or sprayed on, or
9 otherwise applied to the human body for cleaning, cleansing,
10 beautifying, promoting attractiveness, or altering the
11 appearance of the human body. "Cosmetic" includes a skin
12 moisturizer, perfume, lipstick, nail polish, eye or facial
13 makeup, shampoo, conditioner, permanent wave, hair dye, and
14 deodorant. "Cosmetic" does not include a product that requires
15 a prescription for distribution or dispensation.

16 "Drilling fluid" means a fluid that is circulated into the
17 borehole of a well to lubricate and cool a drill bit.

18 "Fabric treatment" means a product applied to fabric to
19 give the fabric one or more characteristics, such as stain
20 resistance and water resistance.

21 "Food packaging" means a package or packaging component
22 used in direct contact with food and composed in substantial
23 part of paper, paperboard, or any other material originally
24 derived from plant fibers.

25 "Hydraulic fracturing fluid" means a fluid, such as a base
26 fluid or a fluid additive, injected into an oil or gas well to

1 perform a hydraulic fracturing operation.

2 "Intentionally added PFAS chemical" means a PFAS chemical
3 that a PFAS manufacturer has intentionally added to a product
4 and that has a functional or technical effect on the product.

5 "Intentionally added PFAS chemical" includes a chemical that
6 is produced through the decomposition of a PFAS chemical that
7 a PFAS manufacturer has intentionally added to a product.

8 "Juvenile product" means a product designed for use by
9 infants or children under 12 years of age. "Juvenile product"
10 includes all of the following:

11 (1) Bassinets and other bedside sleepers.

12 (2) Booster seats, car seats, and other child
13 restraint systems.

14 (3) Changing pads.

15 (4) Co-sleepers.

16 (5) Crib mattresses or toddler mattresses.

17 (6) Play mats, such as floor play mats.

18 (7) Highchairs and highchair pads.

19 (8) Infant bouncers.

20 (9) Infant carriers.

21 (10) Infant or toddler foam pillows.

22 (11) Infant seats.

23 (12) Infant sleep positioners.

24 (13) Infant swings.

25 (14) Infant travel beds.

26 (15) Nap cots.

- 1 (16) Nursing pads and pillows.
2 (17) Playpens.
3 (18) Play yards.
4 (19) Polyurethane foam mats, pads, or pillows.
5 (20) Portable foam nap mats.
6 (21) Portable infant sleepers and hook-on chairs.
7 (22) Soft-sided portable cribs.
8 (23) Strollers.

9 "Juvenile product" does not include any of the following:

- 10 (1) Electronic products, such as any of the following:
11 (A) Personal computers and associated equipment.
12 (B) Audio and video equipment.
13 (C) Calculators.
14 (D) Wireless phones.
15 (E) Gaming consoles.
16 (F) Handheld devices that incorporate a video
17 screen.
18 (G) Any peripheral device associated with an
19 electronic product such as a mouse, keyboard, power
20 supply unit, or power cord.
21 (2) An internal component of what would otherwise
22 constitute a juvenile product but that would not come into
23 direct contact with a child's skin or mouth during the
24 reasonably foreseeable use or abuse of the juvenile
25 product by a child.
26 (3) Adult mattresses.

1 "Oil and gas product" means a hydraulic fracturing fluid,
2 drilling fluid, or proppant.

3 "Package" means a material intended or used to contain,
4 protect, handle, deliver, or present a product.

5 "Packaging component" means an individual part of a
6 package, such as interior or exterior blocking, bracing,
7 cushioning, weatherproofing, exterior strapping, coatings,
8 closures, inks, and labels.

9 "PFAS chemical" means any of the perfluoroalkyl substances
10 or polyfluoroalkyl substances included in the United States
11 Environmental Protection Agency's expanded ToxCast chemical
12 inventory.

13 "PFAS manufacturer" means a person or entity who
14 manufacturers or assembles a product containing PFAS chemicals
15 or whose brand name is affixed to a product containing PFAS
16 chemicals. If the product is imported into the United States
17 and the person or entity who manufacturers or assembles the
18 product or whose brand name is affixed to the product does not
19 have a presence in the United States, the importer or first
20 domestic distributor of the product is a "PFAS manufacturer".

21 "Product" means an item that is manufactured, assembled,
22 or otherwise prepared for sale or distribution to consumers
23 and that is sold or distributed for personal, residential,
24 commercial, or industrial use, such as for use in making
25 another item. "Product" includes any component of such an
26 item. "Product" does not include any of the following:

1 (1) A drug, medical device, biologic, or diagnostic
2 approved or authorized by the United States Food and Drug
3 Administration or the United States Department of
4 Agriculture.

5 (2) Veterinary pesticide products approved by the
6 United States Environmental Protection Agency for use in
7 animals.

8 (3) A material used in the packaging of the materials
9 described in paragraphs (1) and (2).

10 (4) A product sold or resold before the effective date
11 of this amendatory Act of the 103rd General Assembly.

12 "Product category" means a class or division of products
13 that share related characteristics.

14 "Product component" means an identifiable component of a
15 product, regardless of whether the product's PFAS manufacturer
16 is the component's PFAS manufacturer.

17 "Proppant" means a material inserted or injected into an
18 underground geologic formation during an oil and gas operation
19 to prevent a geologic fracture from closing.

20 "Textile" includes leather, cotton, silk, jute, hemp,
21 wool, nylon, and polyester.

22 "Textile furnishing" means a textile of a type customarily
23 used in households and businesses but that are not used in
24 medical, professional, or industrial settings. "Textile
25 furnishing" includes any drapery, floor covering, furnishing,
26 bedding, towel, or tablecloth.

1 "Upholstered furniture" means an article of furniture
2 designed for sitting, resting, or reclining and wholly or
3 partially stuffed with a filling material.

4 (c) On and after January 1, 2025, no person shall sell,
5 offer for sale, distribute for sale, or distribute for use in
6 the State any product in any of the following product
7 categories if the product contains an intentionally added PFAS
8 chemical:

9 (1) Carpets or rugs.

10 (2) Fabric treatments.

11 (3) Food packaging.

12 (4) Juvenile products.

13 (5) Oil and gas products.

14 (6) Apparel.

15 (d) On and after January 1, 2026, no person shall sell,
16 offer for sale, distribute for sale, or distribute for use in
17 the State any of the following products that contain an
18 intentionally added PFAS chemical:

19 (1) Cosmetics.

20 (2) Indoor textile furnishings.

21 (3) Indoor upholstered furniture.

22 (e) On and after January 1, 2027, no person shall sell,
23 distribute for sale, offer for sale, or distribute for use in
24 the State any of the following products that contain an
25 intentionally added PFAS chemical:

26 (1) Outdoor textile furnishings.

1 (2) Outdoor upholstered furniture.

2 (f) On and after January 1, 2025, a PFAS manufacturer of
3 cookware sold in this State that contains an intentionally
4 added PFAS chemical in the handle of the cookware or in any
5 surface of the cookware that comes into contact with food,
6 foodstuffs, or beverages shall list the presence of PFAS
7 chemicals on the cookware's product label. The PFAS
8 manufacturer shall ensure that the product label is at least 2
9 square inches in size and includes a statement on the product
10 label in both English and Spanish that reads: "For more
11 information about PFAS chemicals in this product, visit"
12 followed by both of the following:

13 (1) The address of a website of the PFAS manufacturer
14 that provides information explaining the purpose of the
15 intentionally added PFAS chemical.

16 (2) A quick response (QR) code, or other
17 machine-readable code, consisting of an array of squares
18 and that stores information directing consumers to the
19 website required under paragraph (1).

20 (g) A PFAS manufacturer of cookware sold in this State
21 shall ensure that the product label statement required under
22 subsection (f) is legible and visible to consumers, such as on
23 the PFAS manufacturer's online listing of the cookware.

24 (h) Cookware is exempt from this Section if it meets all of
25 the following requirements:

26 (1) The surface area of the cookware is not large

1 enough for a product label that meets the requirements of
2 subsection (f) to be affixed to the item.

3 (2) The cookware does not have any of the following:

4 (A) An exterior container or wrapper upon which a
5 product label can appear or be affixed.

6 (B) A tag or label to which information about the
7 cookware may be attached.

8 (i) On and after January 1, 2025, a PFAS manufacturer
9 shall not make a claim on a package for cookware that the
10 cookware is free of any intentionally added PFAS chemical
11 unless the cookware contains no intentionally added PFAS
12 chemical.

13 (j) Cookware that contains an intentionally added PFAS
14 chemical in the handle of the product or in any surface of the
15 cookware that comes into contact with food, foodstuffs, or
16 beverages shall not be sold, offered for sale, or distributed
17 in this State unless the cookware and its PFAS manufacturer
18 are in compliance with subsections (f) through (i).

19 (k) A PFAS manufacturer that sells or distributes a
20 product that contains intentionally added PFAS chemicals for
21 use in the State shall submit a written notification to the
22 Agency that includes:

23 (1) the trade name of the product;

24 (2) a description of the purpose that PFAS chemicals
25 serve in the product;

26 (3) the name and physical address of the PFAS

1 manufacturer;

2 (4) the name, physical address, and phone number of a
3 contact person for the PFAS manufacturer; and

4 (5) any additional information required by the Agency
5 by rule.

6 A PFAS manufacturer who sells or distributes a product
7 containing intentionally added PFAS chemicals for use in the
8 State on or before December 31, 2024 shall submit the written
9 notification required under this subsection no later than 30
10 days before January 1, 2025.

11 A PFAS manufacturer who sells or distributes a product
12 containing intentionally added PFAS chemicals for use in the
13 State on or after January 1, 2025 shall submit the written
14 notification required under this subsection at least 30 days
15 after the PFAS manufacturer sells or distributes the product.

16 No later than 30 days after the Agency receives a written
17 notification from a PFAS manufacturer under this subsection,
18 the Agency shall publish the trade name of the product and the
19 name of the PFAS manufacturer of the product on the Agency's
20 website.

21 If there is a subsequent change in information after being
22 provided in a notification under this subsection, the PFAS
23 manufacturer shall notify the Agency of the change not less
24 than 30 days after the date that the PFAS manufacturer becomes
25 aware of it.

26 When submitting notification required under this

1 subsection, a PFAS manufacturer shall pay a fee in an amount
2 established or adjusted by the Agency by rule to be used by the
3 Agency for costs incurred in the administration or
4 implementation of this Section. The Agency may base the fee on
5 the amount of PFAS chemicals used in a product or product
6 category or the amount of sales of the product or product
7 category in the State.

8 (l) The Agency may:

9 (1) enter into an agreement with one or more states or
10 political subdivisions of a state to collect notification
11 required under subsection (k); and

12 (2) allow PFAS manufacturers to submit notification
13 required under subsection (k) to a system shared with one
14 or more states or political subdivisions of a state.

15 (m) The Director of the Agency may waive all or part of the
16 notification requirements in subsection (k) if the Director
17 determines that substantially equivalent information is
18 publicly available.

19 The Director may extend the deadline for a notification
20 requirement under subsection (k) if the Director determines
21 that a PFAS manufacturer needs more time to comply with the
22 notification requirement.

23 (n) Moneys from fees collected under this Section shall be
24 deposited into the Environmental Protection Trust Fund.

25 (o) The Agency shall propose, and the Board shall adopt,
26 rules necessary to implement this Section.

1 (p) A PFAS manufacturer or person who violates this
2 Section is subject to a civil penalty not to exceed \$5,000 for
3 a first violation and a civil penalty not to exceed \$10,000 for
4 a second or subsequent violation. Penalties collected under
5 this Section must be deposited into the Environmental
6 Protection Trust Fund to be used in accordance with the
7 provisions of this Act.

8 (q) The Attorney General has the authority to enforce this
9 Section, conduct civil investigations, and bring a civil
10 action for any violation of this Section.