

Chapter 139

(Senate Bill 273)

AN ACT concerning

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

FOR the purpose of altering certain provisions of law establishing a certain prohibition on certain uses of certain fire-fighting foam by prohibiting, on or after a certain date, a person from using, manufacturing, or knowingly selling, offering for sale, or distributing for sale or use certain fire-fighting foam in the State, subject to certain exceptions; prohibiting a certain person from releasing certain foam into the environment in a certain manner and requiring the person to take certain actions and maintain certain documentation; providing for the process for the Department of the Environment, the Attorney General, the State’s Attorney for a county or Baltimore City, a county attorney, or a City Attorney to obtain certain compliance information; providing that a failure to meet certain requirements does not preclude certain use of a certain foam under certain circumstances; establishing requirements that apply to the sale of certain personal protective equipment that contains PFAS chemicals; establishing a process by which the Department ~~purchases~~ takes back and disposes of certain fire-fighting foam; prohibiting a person from disposing of a certain foam in a certain manner; prohibiting a certain person, on or after a certain date, from manufacturing, or knowingly selling, offering for sale, or distributing for sale or use in the State a certain rug or carpet to which PFAS chemicals have been intentionally added for certain purposes; prohibiting a certain manufacturer or distributor, on or after a certain date, from manufacturing, or knowingly selling, offering for sale, or distributing for sale or use in the State a certain food package or food packaging component to which PFAS chemicals have been intentionally added; requiring the Department of the Environment and the Maryland Department of Health jointly to prepare, in coordination with certain entities, and submit to the General Assembly a certain PFAS Action Plan; and generally relating to PFAS chemicals.

BY repealing and reenacting, with amendments,
Article – Environment
Section 6–1601 and 6–1603
Annotated Code of Maryland
(2013 Replacement Volume and 2021 Supplement)

BY repealing
Article – Environment
Section 6–1602 and 6–1604
Annotated Code of Maryland
(2013 Replacement Volume and 2021 Supplement)

BY adding to

Article – Environment

Section 6–1602, 6–1604, and 6–1604.1

Annotated Code of Maryland

(2013 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – Environment

Section 6–1605

Annotated Code of Maryland

(2013 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 9–1901 through 9–1905

Annotated Code of Maryland

(2014 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Environment

6–1601.

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

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

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

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

[(c)] (e) “PFAS chemicals” means, WHEN USED IN FIRE–FIGHTING AGENTS, FIRE–FIGHTING EQUIPMENT, FOOD PACKAGING, AND RUGS AND CARPETS, a class of fluorinated organic chemicals that[:

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

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

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

(1) COMMERCIAL OR RESIDENTIAL BROADLOOM CARPET; AND

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

(G) “TERMINAL” MEANS:

(1) A BULK LIQUID STORAGE FACILITY EXCLUSIVELY ENGAGED IN THE MERCHANT WHOLESALE DISTRIBUTION OF PETROLEUM PRODUCTS, INCLUDING LIQUEFIED PETROLEUM GAS, THAT CONTAINS AT LEAST ONE STORAGE TANK CONTAINING PETROLEUM PRODUCTS WITH A SURFACE AREA OF 120 SQUARE METERS OR GREATER; OR

(2) A FACILITY ENGAGED IN THE DISTRIBUTION OF CRUDE PETROLEUM FROM EXTRACTION OR PROCESSING FACILITIES THAT INCLUDES AT LEAST ONE STORAGE TANK CONTAINING CRUDE PETROLEUM WITH A SURFACE AREA OF 120 SQUARE METERS OR GREATER.

[6-1602.

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

(b) This subtitle does not restrict:

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

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

6-1602.

THE DEPARTMENT ~~MAY~~ SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

6-1603.

(A) [On or after October 1, 2021,] EXCEPT AS PROVIDED IN ~~SUBSECTION SUBSECTIONS (B) AND (C) OF THIS SECTION, ON OR AFTER JANUARY 1, 2023, 2024,~~ A PERSON MAY NOT USE, MANUFACTURE, OR KNOWINGLY SELL, OFFER FOR SALE, OR DISTRIBUTE FOR SALE OR USE Class B fire-fighting foam that contains intentionally added PFAS chemicals [may not be used for:

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

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

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

(2) Training purposes] IN THE STATE.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PERSON MAY USE, MANUFACTURE, SELL, OFFER FOR SALE, OR DISTRIBUTE FOR SALE OR USE CLASS B FIRE-FIGHTING FOAM THAT CONTAINS INTENTIONALLY ADDED PFAS CHEMICALS IN THE STATE:

(1) ON OR BEFORE SEPTEMBER 30, 2024, IF THE FIRE-FIGHTING FOAM WILL BE USED AT AN AIRPORT, A PORT, A REFINERY, OR A CHEMICAL PLANT;

(2) ON OR BEFORE DECEMBER 31, 2027, IF THE FIRE-FIGHTING FOAM WILL BE USED AT A TERMINAL; AND

(3) ON OR BEFORE ANY APPLICABLE DATE SPECIFIED IN FEDERAL LAW, IF THE FIRE-FIGHTING FOAM WILL BE USED BY A PERSON THAT IS REQUIRED TO USE CLASS B FIRE-FIGHTING FOAM THAT CONTAINS INTENTIONALLY ADDED PFAS CHEMICALS.

~~(B)~~ (C) (1) A PERSON THAT IS AUTHORIZED UNDER ~~FEDERAL LAW~~ SUBSECTION (B) OF THIS SECTION TO USE CLASS B FIRE-FIGHTING FOAM THAT CONTAINS INTENTIONALLY ADDED PFAS CHEMICALS:

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

(II) SHALL:

1. FULLY CONTAIN ALL RELEASES ON SITE;
2. IMPLEMENT CONTAINMENT MEASURES, INCLUDING BUNDS AND PONDS, THAT ARE CONTROLLED AND IMPERVIOUS TO PFAS CHEMICALS AND DO NOT ALLOW FIREWATER, WASTEWATER, RUNOFF, AND OTHER WASTES TO BE RELEASED INTO THE ENVIRONMENT, INCLUDING SOILS, GROUNDWATER, WATERWAYS, AND STORMWATER;
3. DISPOSE OF ALL FIREWATER, WASTEWATER, RUNOFF, AND OTHER WASTES IN A WAY THAT PREVENTS RELEASES INTO THE ENVIRONMENT;
4. WITHIN 5 DAYS AFTER A RELEASE IN VIOLATION OF ITEM (I) OF THIS PARAGRAPH, REPORT THE RELEASE TO THE DEPARTMENT, INCLUDING INFORMATION ON THE IDENTITY OF THE FOAM, THE QUANTITY USED, THE TOTAL PFAS CONCENTRATION, AND THE FORM OF ANY WASTE THAT CONTAINS PFAS CHEMICALS; AND
5. MAINTAIN DOCUMENTATION ON ANY MEASURES TAKEN UNDER THIS PARAGRAPH.

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

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

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

~~(C)~~ (D) (1) IF A PERSON SELLS PERSONAL PROTECTIVE EQUIPMENT FOR FIRE FIGHTING THAT CONTAINS PFAS CHEMICALS IN THE STATE, THE PERSON SHALL PROVIDE WRITTEN NOTICE TO THE PURCHASER AT THE TIME OF THE SALE THAT INCLUDES:

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

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

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

(E) (1) ON REQUEST OF A FIRE DEPARTMENT IN THE STATE, THE DEPARTMENT SHALL ~~PURCHASE~~ TAKE BACK FROM THE FIRE DEPARTMENT CLASS B FIRE-FIGHTING FOAM THAT CONTAINS INTENTIONALLY ADDED PFAS CHEMICALS FOR THE PRICE THAT THE FIRE DEPARTMENT PAID WHEN IT PURCHASED THE FIRE-FIGHTING FOAM.

(2) THE DEPARTMENT SHALL DISPOSE OF FIRE-FIGHTING FOAM ~~PURCHASED~~ RECEIVED UNDER THIS SUBSECTION IN A MANNER CONSISTENT WITH THIS SUBTITLE.

(3) FOR FISCAL YEAR 2024, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF \$500,000 TO THE DEPARTMENT FOR THE PURPOSE OF ~~PURCHASING~~ TAKING BACK AND DISPOSING OF FIRE-FIGHTING FOAM UNDER THIS SECTION.

[6-1604.

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

6-1604.

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

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

(2) IN A LANDFILL.

6-1604.1.

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

(B) ON OR AFTER JANUARY 1, ~~2023~~, 2024, A PERSON MAY NOT ~~MANUFACTURE,~~ MANUFACTURE OR KNOWINGLY SELL, OFFER FOR SALE, OR DISTRIBUTE FOR SALE OR USE IN THE STATE A RUG OR CARPET TO WHICH PFAS CHEMICALS HAVE BEEN INTENTIONALLY ADDED.

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

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

6-1605.

A person who violates this subtitle is subject to:

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

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

9-1901.

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

(b) “Distributor” means any person that:

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

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

(i) Sale to a consumer; or

(ii) Promotional purposes.

(C) “FOOD PACKAGE” MEANS A PACKAGE THAT IS DESIGNED AND INTENDED FOR DIRECT FOOD CONTACT AND IS COMPOSED, IN SUBSTANTIAL PART, OF PAPER, PAPERBOARD, OR OTHER MATERIALS ORIGINALLY DERIVED FROM PLANT FIBERS, INCLUDING:

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

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

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

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

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

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

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

(2) “Package” includes:

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

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

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

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

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

(H) “PFAS CHEMICALS” MEANS, WHEN USED IN FIRE-FIGHTING AGENTS, FIRE-FIGHTING EQUIPMENT, FOOD PACKAGING, AND RUGS AND CARPETS, A CLASS OF FLUORINATED ORGANIC CHEMICALS THAT CONTAIN AT LEAST ONE FULLY FLUORINATED CARBON ATOM, INCLUDING PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES.

9–1902.

(a) Except as provided in §§ 9–1903 and 9–1904 of this subtitle, on or after July 1, 1993, a manufacturer or distributor may not sell or offer for sale or for promotional purposes any package or packaging component or any product in a package or packaging component to which any of the following was intentionally added during manufacture or distribution:

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

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

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

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

(D) ON OR AFTER JANUARY 1, ~~2023~~, 2024, A MANUFACTURER OR DISTRIBUTOR MAY NOT MANUFACTURE, OR KNOWINGLY SELL, OFFER FOR SALE, OR DISTRIBUTE FOR SALE OR USE IN THE STATE A FOOD PACKAGE OR FOOD PACKAGING COMPONENT DESIGNED AND INTENDED FOR DIRECT FOOD CONTACT TO WHICH PFAS CHEMICALS WERE INTENTIONALLY ADDED.

9–1903.

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

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

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

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

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

9–1904.

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

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

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

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

(c) A conditional exemption granted under this section:

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

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

9–1905.

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

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

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That:

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, April 21, 2022.