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H.P. 1113

House of Representatives, April 15, 2021

An Act To Stop Perfluoroalkyl and Polyfluoroalkyl Substances Pollution

Received by the Clerk of the House on April 13, 2021. Referred to the Committee on Environment and Natural Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative GRAMLICH of Old Orchard Beach.
Cosponsored by Senator BENNETT of Oxford and
Representatives: DUNPHY of Old Town, FAY of Raymond, Speaker FECTEAU of Biddeford,
PLUECKER of Warren, Senator: DAUGHTRY of Cumberland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 38 MRSA §1612** is enacted to read:

3 **§1612. Products containing PFAS**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Carpet or rug" means a fabric marketed or intended for use as a floor covering.

7 B. "Currently unavoidable use" means a use of PFAS that the department has
8 determined by rule under this section to be essential for health, safety or the functioning
9 of society and for which alternatives are not reasonably available.

10 C. "Fabric treatment" means a substance applied to fabric to give the fabric one or
11 more characteristics, including but not limited to stain resistance or water resistance.

12 D. "Intentionally added PFAS" means PFAS added to a product or one of its product
13 components to provide a specific characteristic, appearance or quality or to perform a
14 specific function. "Intentionally added PFAS" also includes any degradation by-
15 products of PFAS.

16 E. "Manufacturer" means the person that manufactures a product or whose brand name
17 is affixed to the product. In the case of a product imported into the United States,
18 "manufacturer" includes the importer or first domestic distributor of the product if the
19 person that manufactured or assembled the product or whose brand name is affixed to
20 the product does not have a presence in the United States.

21 F. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means substances that
22 include any member of the class of fluorinated organic chemicals containing at least
23 one fully fluorinated carbon atom.

24 G. "Product" means an item manufactured, assembled, packaged or otherwise prepared
25 for sale to consumers, including its product components, sold or distributed for
26 personal, residential, commercial or industrial use, including for use in making other
27 products.

28 H. "Product component" means an identifiable component of a product, regardless of
29 whether the manufacturer of the product is the manufacturer of the component.

30 I. "Publicly owned treatment works" has the same meaning as in section 361-A.

31 **2. Notification.** A manufacturer of a product for sale in the State that contains
32 intentionally added PFAS shall comply with the requirements of this subsection.

33 A. Beginning January 1, 2023, a manufacturer of a product for sale in the State that
34 contains intentionally added PFAS shall submit to the department a written notification
35 that includes:

36 (1) A brief description of the product;

37 (2) The purpose for which PFAS are used in the product, including in any product
38 components;

39 (3) The amount of each of the PFAS, identified by its chemical abstracts service
40 registry number, in the product, reported as an exact quantity determined using

1 commercially available analytical methods or as falling within a range approved
2 for reporting purposes by the department;

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

5 (5) Any additional information established by the department by rule as necessary
6 to implement the requirements of this section.

7 B. With the approval of the department, a manufacturer may supply the information
8 required in paragraph A for a category or type of product rather than for each individual
9 product.

10 C. In accordance with rules adopted by the department, a manufacturer shall update
11 and revise the information in the written notification whenever there is significant
12 change in the information.

13 **3. Waiver of notification; coordination with other states; extension of deadline.**

14 The department may waive all or part of the notification requirement under subsection 2 if
15 the department determines that substantially equivalent information is already publicly
16 available. The department may enter into an agreement with one or more other states or
17 political subdivisions of a state to collect notifications and may accept notifications to a
18 shared system as meeting the notification requirement under subsection 2. The department
19 may extend the deadline for submission by a manufacturer of the information required
20 under subsection 2 if the department determines that more time is needed by the
21 manufacturer to comply with the submission requirement.

22 **4. Exemptions.** The following are exempt from this section:

23 A. A product for which federal law governs the presence of PFAS in the product in a
24 manner that preempts state authority; and

25 B. A product subject to Title 32, chapter 26-A or 26-B.

26 **5. Prohibition on sale of products containing intentionally added PFAS.** This
27 subsection governs sales of products containing intentionally added PFAS.

28 A. Effective January 1, 2023, a person may not sell, offer for sale or distribute for sale
29 in this State a carpet or rug that contains intentionally added PFAS. This prohibition
30 does not apply to the sale or resale of a used carpet or rug.

31 B. Effective January 1, 2023, a person may not sell, offer for sale or distribute for sale
32 in this State a fabric treatment that contains intentionally added PFAS. This prohibition
33 does not apply to the sale or resale of a used fabric treatment.

34 C. The department may by rule identify products by category or use that may not be
35 sold, offered for sale or distributed for sale in this State if they contain intentionally
36 added PFAS. The department shall prioritize the prohibition of the sale of product
37 categories that, in the department's judgment, are most likely to cause contamination
38 of the State's land or water resources if they contain intentionally added PFAS.
39 Products in which the use of PFAS is a currently unavoidable use as determined by the
40 department may be exempted by the department by rule. The department may not
41 prohibit the sale or resale of used products.

1 D. Effective January 1, 2030, a person may not sell, offer for sale or distribute for sale
2 in this State any product that contains intentionally added PFAS, unless the department
3 has determined by rule that the use of PFAS in the product is a currently unavoidable
4 use. The department may specify specific products or product categories in which it
5 has determined the use of PFAS is a currently unavoidable use. This prohibition does
6 not apply to the sale or resale of used products.

7 **6. Fees.** The department may establish by rule and assess a fee payable by a
8 manufacturer upon submission of the notification required under subsection 2 to cover the
9 department's reasonable costs in developing rules under subsection 5, paragraphs C and D
10 and administering the requirements of subsections 2 and 9. The department may choose to
11 set fees based upon the volume of PFAS, volume of sales or type of PFAS.

12 **7. Failure to provide notice.** A person, other than a retailer, may not sell, offer for
13 sale or distribute for sale in this State a product containing intentionally added PFAS unless
14 the manufacturer of that product has provided information required under subsection 2 to
15 the department or unless the department by rule has determined that the use of PFAS in the
16 product is a currently unavoidable use. A retailer may not sell, offer for sale or distribute
17 for sale in this State a product containing intentionally added PFAS if the retailer has
18 received a notification with respect to that product in accordance with subsection 8,
19 paragraph B.

20 **8. Certificate of compliance.** If the department has reason to believe that a product
21 contains intentionally added PFAS and is being offered for sale in violation of subsection
22 7, the department may direct the manufacturer of the product to, within 30 days:

23 A. Provide the department with the certificate attesting that the product does not
24 contain intentionally added PFAS; or

25 B. Notify persons who sell that product in this State that the sale of that product is
26 prohibited in this State and provide the department with a list of the names and
27 addresses of those notified.

28 **9. PFAS source reduction program.** The department shall develop and implement,
29 in consultation with relevant stakeholders, a program to reduce the presence of PFAS in
30 discharges to air, water and land. The program must be designed to encourage the
31 replacement of PFAS with safer alternatives, but may also support the proper management
32 of PFAS. Elements of the program may be carried out in conjunction with existing
33 department efforts for pollution prevention or source reduction. The program must include:

34 A. Information resources targeted to industrial or commercial users of PFAS;

35 B. Education of the general public;

36 C. To the extent funds are available, grants to operators of publicly owned treatment
37 works for the purposes of developing, expanding or implementing pretreatment
38 standards for PFAS and education of users on sources of PFAS and proper
39 management;

40 D. To the extent funds are available, grants to municipalities for the purposes of
41 educating solid waste disposal users on sources of PFAS and proper management; and

42 E. Other efforts determined by the department to be prudent to achieve the program's
43 purpose.

