



2023 SENATE BILL 1093

March 18, 2024 - Introduced by Senators PFAFF, AGARD, CARPENTER, HESSELBEIN, L. JOHNSON, LARSON, ROYS, SMITH, SPREITZER and WIRCH, cosponsored by Representatives PALMERI, BILLINGS, BALDEH, J. ANDERSON, ANDRACA, BARE, CONLEY, CONSIDINE, EMERSON, HONG, JOERS, MOORE OMOKUNDE, NEUBAUER, OHNSTAD, RATCLIFF, SHELTON, SINICKI, STUBBS and SUBECK. Referred to Committee on Natural Resources and Energy.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to create* 299.485 of the statutes; **relating to:** banning products
2 containing intentionally added PFAS and providing a penalty.

Analysis by the Legislative Reference Bureau

Beginning January 1, 2028, this bill prohibits the sale or distribution of certain products that contain intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS), including food packaging, cleaning products, cosmetics, and textile furnishings. The bill prohibits the sale or distribution of all products containing intentionally added PFAS beginning January 1, 2034. The bill provides certain exemptions to this ban, including by allowing the Department of Natural Resources to identify, by rule, products in which the use of PFAS is an unavoidable use.

The bill allows DNR to require manufacturers to test certain products for PFAS. A person that violates the prohibition on sales and distribution is subject to a civil forfeiture of \$100 for each violating product, for each day that the violation continues.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 299.485 of the statutes is created to read:

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1 **299.485 Products containing PFAS. (1) DEFINITIONS.** In this section:

2 (a) “Fabric treatment” means a substance applied to fabric to give the fabric one
3 or more characteristics, such as stain or water resistance.

4 (b) “Food packaging” means a container applied to or providing a means to
5 market, protect, handle, deliver, serve, contain, or store a food or beverage. “Food
6 packaging” includes a unit package, an intermediate package, and a shipping
7 container; unsealed receptacles, such as carrying cases, crates, cups, plates, bowls,
8 pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs; and
9 an individually assembled part of a food package, such as any interior or exterior
10 blocking, bracing, cushioning, weatherproofing, exterior strapping, coating, closure,
11 ink, and label.

12 (c) “Intentionally added PFAS” means PFAS that are deliberately added during
13 the manufacture of a product where the continued presence of PFAS is desired in the
14 final product or one of the product’s components to perform a specific function.

15 (d) “Juvenile product” means a product designed or marketed for use by infants
16 and children under the age of 12, but does not include an electronic product such as
17 a personal computer, audio and video equipment, calculator, wireless phone, game
18 console, or any associated peripheral.

19 (e) “PFAS” means a fluorinated organic chemical containing at least one fully
20 fluorinated carbon atom.

21 (f) “Textile furnishings” means textile goods of a type customarily used in
22 households and businesses, including draperies, floor coverings, furnishings,
23 bedding, towels, and tablecloths.

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1 (g) “Unavoidable use” means a use of PFAS that is protective or beneficial to
2 public health or safety or to the environment and for which there are no feasible
3 alternatives available with a lower risk to public health and the environment.

4 (2) PROHIBITIONS. (a) Beginning on January 1, 2028, no person may distribute,
5 sell, or offer for sale any of the following products if the product contains
6 intentionally added PFAS:

- 7 1. Food packaging, or food products contained in food packaging.
- 8 2. Carpets or rugs.
- 9 3. Cleaning products.
- 10 4. Cookware.
- 11 5. Cosmetics.
- 12 6. Dental floss.
- 13 7. Fabric treatments.
- 14 8. Juvenile products.
- 15 9. Menstruation products.
- 16 10. Textile furnishings.
- 17 11. Ski wax.
- 18 12. Upholstered furniture.
- 19 13. A product for which the manufacturer has failed to provide the information
20 required under sub. (4).

21 (b) The department may, by rule, identify products, in addition to those under
22 par. (a) 1. to 13., by category or use that may not be distributed, sold, or offered for
23 sale, and designate effective dates for such prohibitions.

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1 (c) Beginning on January 1, 2034, no person may distribute, sell, or offer for sale
2 any product that contains intentionally added PFAS, unless the department has
3 determined, by rule, that the use of PFAS in the product is an unavoidable use.

4 **(3) EXEMPTIONS.** This section does not apply to any of the following:

5 (a) A product for which federal law governs the presence of PFAS in the product
6 in a manner that preempts state law.

7 (b) Fire fighting foam regulated under s. 299.48.

8 (c) The sale or resale of a used product.

9 (d) A prosthetic or orthotic device, or any product that is a medical device or
10 drug or that is otherwise used in a medical setting or in medical applications
11 regulated by the U.S. food and drug administration.

12 (e) A product for which the department has determined, by rule, that the use
13 of PFAS in the product is an unavoidable use.

14 **(4) INFORMATION REQUIRED.** (a) On or before January 1, 2028, a manufacturer
15 of a product distributed, sold, or offered for sale that contains intentionally added
16 PFAS shall submit to the department a brief description of the product; the purpose
17 for which PFAS is used in the product; the amount of each type of PFAS in the
18 product; the name, address, and phone number for the manufacturer; and any
19 additional information requested by the department as needed to implement this
20 section.

21 (b) A manufacturer shall submit the information required under par. (a)
22 whenever a new product that contains intentionally added PFAS is distributed, sold,
23 or offered for sale, and shall revise information provided to the department whenever
24 there is a significant change in the information.

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1 **(5) TESTING; CERTIFICATE OF COMPLIANCE.** If the department has reason to believe
2 that a product contains intentionally added PFAS and the product is being
3 distributed, sold, or offered for sale, the department may direct the manufacturer of
4 the product to, within 30 days, provide the department with testing results that
5 demonstrate the amount of each of the PFAS in the product. If testing shows that
6 the product does not contain intentionally added PFAS, the manufacturer shall
7 provide the department with the testing results and a certificate attesting that the
8 product does not contain intentionally added PFAS. If testing shows that the product
9 contains intentionally added PFAS, the manufacturer shall provide the department
10 with the testing results and the information required under sub. (4).

11 **(6) PENALTY.** A person that violates sub. (2) (a) or (c) shall be subject to a
12 forfeiture of \$100 for each violating product, for each day that the violation continues.

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(END)