

AMENDED IN ASSEMBLY MAY 9, 2022

AMENDED IN ASSEMBLY MARCH 24, 2022

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CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1817

Introduced by Assembly Members Ting and Cristina Garcia
(Principal coauthor: Assembly Member Friedman)
(Coauthors: Assembly Members Bloom and Stone)
(Coauthor: Senator Stern)

February 7, 2022

An act to add Chapter 13.5 (commencing with Section 108970) to Part 3 of Division 104 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1817, as amended, Ting. Product safety: textile articles: perfluoroalkyl and polyfluoroalkyl substances (PFAS).

Existing law prohibits, beginning January 1, 2023, any person from distributing, selling, or offering for sale in the state any food packaging that contains regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS, as defined, and requires a manufacturer to use the least toxic alternative when replacing regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS in food packaging to comply with this requirement. Existing law similarly prohibits, beginning July 1, 2023, a person from selling or distributing in commerce in this state any new, not previously owned, juvenile product, as defined, that contains regulated PFAS chemicals.

This bill would prohibit, beginning January 1, ~~2024~~, 2025, any person from *manufacturing*, distributing, selling, or offering for sale in the state any textile articles that contain regulated PFAS, and requires a manufacturer to use the least toxic alternative when removing regulated PFAS in textile articles to comply with these provisions. *The bill would require a manufacturer of a textile article that contains regulated PFAS to provide persons that offer the product for sale or distribution in the state with a certificate of compliance stating that the textile article is in compliance with these provisions and does not contain any regulated PFAS.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (1) *Perfluoroalkyl and polyfluoroalkyl substances, or PFAS,*
- 4 *are known persistent, toxic, and bioaccumulative substances with*
- 5 *multiple adverse effects on human health.*
- 6 (2) *PFAS are utilized in a broad range of products for their*
- 7 *water- and stain-resistant properties, including clothing and*
- 8 *textiles, despite the growing body of evidence that these materials*
- 9 *may leach into food, water supplies, and even the human body*
- 10 *through prolonged exposure. PFAS in apparel and textiles can*
- 11 *contaminate sources of drinking water and our environment in*
- 12 *multiple ways, including through washing and disposal in landfills*
- 13 *and incinerators, in addition to impacts on workers and*
- 14 *communities in manufacturing locations and global circulation of*
- 15 *these persistent chemicals.*
- 16 (3) *Adverse health impacts associated with PFAS include kidney*
- 17 *and liver damage, decreased immune system function, interference*
- 18 *with vaccine uptake, developmental and reproductive harm,*
- 19 *increased risk of asthma, and increased incidences of testicular*
- 20 *and kidney cancer for those with high exposure.*
- 21 (4) *Multiple alternatives to PFAS have been identified for water*
- 22 *resistance in clothing and textiles. For stain resistance, soap and*
- 23 *water work well for most situations, and alternative materials and*
- 24 *cleaning solutions offer additional options. This legislation,*
- 25 *therefore, phases these uses out.*

1 (5) However, for some personal protective equipment (PPE),
2 such as for firefighting gear, alternatives to PFAS are not currently
3 in use. Firefighters face elevated levels of exposure to PFAS
4 through a variety of means, including PPE that is treated with
5 PFAS for its water-resistant properties, as well as through aqueous
6 film-forming foams (AFFF) that contain highly fluorinated forms
7 of fluorosurfactants.

8 (6) In 2020, the Legislature passed and the Governor signed
9 into law Senate Bill 1044, phasing out the use of these fluorinated
10 foams by prohibiting manufacturers from manufacturing,
11 distributing, or selling any firefighting foams containing
12 intentionally added PFAS beginning in 2022, with limited
13 exemptions in place for facilities that require more time to
14 transition their systems.

15 (7) This restriction on the sale and use of fluorinated foams,
16 both in responding to emergencies as well as in training exercises,
17 was in direct response to the health risks posed by repeated
18 exposures, and in recognition of the environmental and other
19 public health impacts of the discharge of these toxic foams.

20 (8) No such phaseouts were mandated for PPE in Senate Bill
21 1044, and unlike AFFF, currently there are no effective alternatives
22 to PFAS in use for critically important, lifesaving PPE. Instead,
23 the bill contained a provision mandating the notification by the
24 seller of PPE to the purchaser if PFAS is present in the PPE, to
25 be kept on file three years from the date of the transaction.

26 (9) Research and product development is currently ongoing to
27 create PPE without PFAS that meets the stringent safety standards
28 required for use by firefighters. Once these products are approved,
29 it is of paramount importance that replacements are made as
30 quickly as possible to ensure that California's firefighters are not
31 forced to expose themselves to toxic substances while wearing
32 their required safety equipment.

33 (10) While this act exempts PPE for the time being to ensure
34 that first responders and other workers continue to have protection
35 on the job, steps must be taken by all employers and manufacturers
36 to ensure that PFAS are eliminated from PPE as quickly as
37 possible, and to limit exposures as much as possible in the
38 meantime.

39 (b) It is the intent of the Legislature that manufacturers of
40 textiles articles eliminate the use of PFAS from their materials,

1 *and that manufacturers of PPE, for which there are no current*
2 *alternatives to PFAS, engage in product development and research*
3 *in order to phase them out as quickly as possible.*

4 SECTION 1.

5 SEC. 2. Chapter 13.5 (commencing with Section 108970) is
6 added to Part 3 of Division 104 of the Health and Safety Code, to
7 read:

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CHAPTER 13.5. TEXTILE ARTICLES

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11 108970. For purposes of this article, the following terms have
12 the following definitions:

13 (a) "Apparel" means either of the following:

14 (1) Clothing items intended for regular wear or formal occasions,
15 including, but not limited to, undergarments, shirts, pants, skirts,
16 dresses, overalls, bodysuits, *costumes*, vests, dancewear, suits,
17 saris, scarves, tops, leggings, school uniforms, leisurewear, athletic
18 wear, sports uniforms, everyday swimwear, formal wear, onesies,
19 bibs, diapers, footwear, and everyday uniforms for workwear.
20 Clothing items intended for regular wear or formal occasions does
21 not include personal protective ~~equipment~~. *equipment or clothing*
22 *items for exclusive use by the United States military.*

23 (2) Clothing items intended primarily for outdoor activities,
24 including, but not limited to, hiking, camping, skiing, climbing,
25 bicycling, and fishing.

26 (b) "Manufacturer" has the same meaning as that term is defined
27 in Section 108952.

28 (c) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS"
29 means a class of fluorinated organic chemicals containing at least
30 one fully fluorinated carbon atom.

31 (d) "Personal protective equipment" means equipment worn to
32 minimize exposure to hazards that cause serious workplace injuries
33 and illnesses that may result from contact with chemical,
34 radiological, physical, *biological*, electrical, mechanical, or other
35 workplace hazards.

36 (e) "Regulated perfluoroalkyl and polyfluoroalkyl substances
37 or PFAS" means either of the following:

38 (1) PFAS that a manufacturer has intentionally added to a
39 product and that have a functional or technical effect in the product,
40 including the PFAS components of intentionally added chemicals

1 and PFAS that are intentional breakdown products of an added
2 chemical that also have a functional or technical effect in the
3 product.

4 (2) The presence of PFAS in a product or product component
5 at or above the practical quantitation limit, *300 parts per billion*,
6 as measured in total organic fluorine.

7 (f) “Textile” means any item made in whole or part from a
8 natural, manmade, or synthetic fiber, yarn, or fabric, and includes,
9 but is not limited to, leather, cotton, silk, jute, hemp, wool, viscose,
10 nylon, or polyester. *“Textile” does not include disposable hygiene*
11 *products made from tree or plant fiber, including, but not limited*
12 *to, toilet paper, paper towels or tissues, or disposable absorbent*
13 *hygiene products.*

14 (g) (1) “Textile articles” means textile goods of a type
15 customarily used in households and businesses, and include, but
16 are not limited to, apparel, ~~costumes~~ and accessories, handbags,
17 backpacks, draperies, shower curtains, furnishings, upholstery,
18 beddings, towels, napkins, and tablecloths. ~~“Textile~~

19 (2) ~~“Textile articles” does not include carpets, rugs, and~~
20 ~~treatments containing PFAS for use on converted textiles or~~
21 ~~leathers, any of the following:~~

22 (A) *Any of the following items regulated under the Safer*
23 *Consumer Products Program (Chapter 55 (commencing with*
24 *Section 69501) of Division 4.5 of Title 22 of the California Code*
25 *of Regulations): Regulations):*

26 (i) *Carpets and rugs.*

27 (ii) *Treatments containing PFAS for use on converted textiles*
28 *or leathers.*

29 (B) *A vehicle, as defined in Section 670 of the Vehicle Code, or*
30 *its component parts.*

31 (C) *Filtration media and filter products used in industrial*
32 *applications, including, but not limited to, chemical or*
33 *pharmaceutical manufacturing, and environmental control*
34 *technologies.*

35 (D) *Textile articles used in or for laboratory analysis and*
36 *testing.*

37 108971. (a) Commencing on January 1, ~~2024~~, 2025, no person
38 shall *manufacture*, distribute, sell, or offer for sale in the state any
39 textile articles that contain regulated perfluoroalkyl and
40 polyfluoroalkyl substances or PFAS.

1 (b) A manufacturer shall use the least toxic alternative, including
2 alternative design, when removing regulated perfluoroalkyl and
3 polyfluoroalkyl substances or PFAS in textile articles to comply
4 with this chapter.

5 (c) *A manufacturer of a textile article that contains regulated*
6 *perfluoroalkyl and polyfluoroalkyl substances or PFAS shall*
7 *provide persons that offer the product for sale or distribution in*
8 *the state with a certificate of compliance stating that the textile*
9 *article is in compliance with the requirements of this chapter and*
10 *does not contain any regulated perfluoroalkyl and polyfluoroalkyl*
11 *substances or PFAS. A certificate of compliance provided pursuant*
12 *to this subdivision shall be signed by an authorized official of the*
13 *manufacturer.*

14 (d) *A distributor or retailer of a textile article that contains*
15 *regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS,*
16 *if they are not also the manufacturer of the product, shall not be*
17 *held in violation of this chapter if they relied in good faith on the*
18 *certificate of compliance provided by the manufacturer pursuant*
19 *to subdivision (c). A distributor or retailer shall not be considered*
20 *to have relied in good faith on the certificate of compliance if they*
21 *know or should have known that the textile article contains*
22 *regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS.*

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