

Assembly Bill No. 1817

CHAPTER 762

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.

[Approved by Governor September 29, 2022. Filed with
Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1817, 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, 2025, any person from manufacturing, distributing, selling, or offering for sale in the state any new, not previously owned, textile articles that contain regulated PFAS, except as specified, 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 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.

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Perfluoroalkyl and polyfluoroalkyl substances, or PFAS, are persistent, toxic, and bioaccumulative substances with multiple adverse effects on human health.

(2) PFAS are utilized in a broad range of products for their water- and stain-resistant properties, including clothing and textiles, despite the growing body of evidence that these materials may leach into food, water supplies, and even the human body through prolonged exposure. PFAS in apparel and textiles can contaminate sources of drinking water and our environment in multiple ways, including through washing and disposal in landfills and

incinerators, in addition to impacts on workers and communities in manufacturing locations and global circulation of these persistent chemicals.

(3) Adverse health impacts associated with PFAS include kidney and liver damage, decreased immune system function, interference with vaccine uptake, developmental and reproductive harm, increased risk of asthma, and increased incidences of testicular and kidney cancer for those with high exposure.

(4) Multiple alternatives to PFAS have been identified for water resistance in clothing and textiles. For addressing stains, soap and water work well for most situations, and alternative materials and cleaning solutions offer additional options. This legislation, therefore, phases these uses of PFAS out.

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

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

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

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

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

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

(b) It is the intent of the Legislature that manufacturers of textile articles eliminate the use of PFAS from their materials, and that manufacturers of PPE, for which there are no current alternatives to PFAS, engage in product development and research in order to phase them out as quickly as possible.

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

CHAPTER 13.5. TEXTILE ARTICLES

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

(a) “Apparel” means any of the following:

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

(2) Outdoor apparel.

(3) Outdoor apparel for severe wet conditions.

(b) “Manufacturer” has the same meaning as that term is defined in Section 108952.

(c) “Outdoor apparel” means clothing items intended primarily for outdoor activities, including, but not limited to, hiking, camping, skiing, climbing, bicycling, and fishing.

(d) “Outdoor apparel for severe wet conditions” means outdoor apparel that are extreme and extended use products designed for outdoor sports experts for applications that provide protection against extended exposure to extreme rain conditions or against extended immersion in water or wet conditions, such as from snow, in order to protect the health and safety of the user and that are not marketed for general consumer use. Examples of extreme and extended use products include outerwear for offshore fishing, offshore sailing, whitewater kayaking, and mountaineering.

(e) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(f) “Personal protective equipment” means equipment worn to minimize exposure to hazards that cause serious workplace injuries and illnesses that may result from contact with chemical, radiological, physical, biological, electrical, mechanical, or other workplace or professional hazards.

(g) “Regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS” means either of the following:

(1) PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product, including the PFAS

components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product.

(2) The presence of PFAS in a product or product component at or above the following thresholds, as measured in total organic fluorine:

(A) Commencing January 1, 2025, 100 parts per million.

(B) Commencing January 1, 2027, 50 parts per million.

(h) “Textile” means any item made in whole or part from a natural, manmade, or synthetic fiber, yarn, or fabric, and includes, but is not limited to, leather, cotton, silk, jute, hemp, wool, viscose, nylon, or polyester. “Textile” does not include single-use paper hygiene products, including, but not limited to, toilet paper, paper towels or tissues, or single-use absorbent hygiene products. For purposes of this subdivision, “single use” has the same meaning as in Section 42041 of the Public Resources Code.

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

(2) “Textile articles” does not include any of the following:

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

(i) Carpets and rugs.

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

(B) A vehicle, as defined in Section 670 of the Vehicle Code, including, but not limited to, an off-highway motor vehicle, as defined in Section 38012 of the Vehicle Code, or its component parts.

(C) A vessel, as defined in Section 21 of the Harbors and Navigation Code, or its component parts, such as boat covers.

(D) Filtration media and filter products used in industrial applications, including, but not limited to, chemical or pharmaceutical manufacturing, and environmental control technologies.

(E) Textile articles used in or for laboratory analysis and testing.

(F) An aircraft, as defined in Section 21012 of the Public Utilities Code, or its component parts.

(G) Stadium shades or other architectural fabric structures. For purposes of this subparagraph, “architectural fabric structure” means a permanent fabric structure that is intrinsic to a building’s design or construction.

108971. (a) (1) Except as provided in paragraph (2), commencing January 1, 2025, no person shall manufacture, distribute, sell, or offer for sale in the state any new, not previously used, textile articles that contain regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS.

(2) Paragraph (1) does not apply to outdoor apparel for severe wet conditions until January 1, 2028. However, commencing January 1, 2025, no person shall distribute, sell, or offer for sale in the state any new, not previously used, outdoor apparel for severe wet conditions that contain regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS unless it

is accompanied by a legible and easily discernable disclosure with the statement “Made with PFAS chemicals,” including for online listings of products for sale.

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

(c) A manufacturer of a textile article shall 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 the requirements of this chapter and does not contain any regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS. A certificate of compliance provided pursuant to this subdivision shall be signed by an authorized official of the manufacturer. The certificate of compliance may be provided electronically.

(d) A distributor or retailer of a textile article, if they are not also the manufacturer of the product, shall not be held in violation of this chapter if they relied in good faith on the certificate of compliance provided by the manufacturer pursuant to subdivision (c).