

MAINE STATE LEGISLATURE

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ENVIRONMENT AND NATURAL RESOURCES

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

131ST LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 610, L.D. 1537, "An Act to Amend the Laws Relating to the Prevention of Perfluoroalkyl and Polyfluoroalkyl Substances Pollution and to Provide Additional Funding"

Amend the bill by striking out the title and substituting the following:

'An Act to Amend the Laws Relating to the Prevention of Perfluoroalkyl and Polyfluoroalkyl Substances Pollution'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 38 MRSA §1614, as amended by PL 2023, c. 138, §§1 to 4, is further amended to read:

§1614. Products containing PFAS

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

A. "Carpet or rug" means a consumer product made from natural or synthetic fabric marketed or intended for use to be used as a floor covering inside commercial or residential buildings. "Carpet or rug" includes, but is not limited to, a carpeted doormat, but does not include:

- (1) A carpet or rug intended solely for outdoor use;
(2) A carpet or rug intended solely for use inside an aircraft, train, watercraft, automobile, light duty truck, van, bus or any other vehicle and any aftermarket or replacement part marketed solely for use in a vehicle;
(3) A resilient floor covering;
(4) Artificial turf;
(5) A wall hanging or covering;
(6) A table mat; or

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- 1 (7) A camping sleeping mat.
- 2 A-1. "Adult mattress" means a mattress that is not a crib mattress or a toddler mattress.
- 3 A-2. "Aerosol propellant" has the same meaning as in section 1613, subsection 1,
- 4 paragraph A.
- 5 A-3. "Air care product" means a chemically formulated consumer product labeled to
- 6 indicate that the purpose of the product is to enhance or condition an indoor
- 7 environment by eliminating odors or freshening the air.
- 8 A-4. "Aircraft" means a contrivance operated by direct physical contact from a human
- 9 that is used or designed for navigation of or flight in the air that requires certification
- 10 and registration as prescribed by federal law or regulation. "Aircraft" does not include:
- 11 (1) A lighter-than-air balloon operated by direct physical contact from a human;
- 12 or
- 13 (2) An ultralight vehicle, as defined in 14 Code of Federal Regulations, Part 103,
- 14 regardless of whether the ultralight vehicle is certified by the United States
- 15 Department of Transportation, Federal Aviation Administration.
- 16 A-5. "Alternative" means a substance or chemical that, if used in place of a PFAS in a
- 17 product, would result in a functionally equivalent product and would reduce the
- 18 potential for harm to human health or the environment or that has not been shown to
- 19 pose the same or greater potential harm to human health or the environment as the
- 20 PFAS. "Alternative" includes:
- 21 (1) A reformulated version of a product in which the intentionally added PFAS in
- 22 the product has been removed; and
- 23 (2) Changes to a product's manufacturing process that result in the removal of the
- 24 PFAS from the product.
- 25 A-6. "Architectural fabric structure" means a permanent fabric structure that is
- 26 intrinsic to the design or construction of a building.
- 27 A-7. "Artificial turf" means an artificial product made from synthetic material that
- 28 simulates the appearance of natural turf, grass, sod or lawn.
- 29 A-8. "Automotive maintenance product" means a chemically formulated consumer
- 30 product labeled to indicate that the purpose of the product is to maintain the appearance
- 31 of a motor vehicle. "Automotive maintenance product" includes products for washing,
- 32 waxing, polishing, cleaning or treating the exterior or interior surface of a motor
- 33 vehicle, but does not include automotive paint or automotive paint repair products.
- 34 A-9. "Cleaning product" means a finished product used primarily for domestic,
- 35 commercial or institutional cleaning purposes, including, but not limited to, an air care
- 36 product, an automotive maintenance product, a general cleaning product and a polish
- 37 or floor maintenance product.
- 38 A-10. "Cookware product" means a durable houseware product intended to be used to
- 39 prepare, dispense or store food, foodstuffs or beverages, including, but not limited to,
- 40 a pot, pan, skillet, grill, baking sheet, baking mold, tray, bowl and cooking utensil.
- 41 A-11. "Cosmetic product" means a product intended to be rubbed, poured, sprinkled
- 42 or sprayed on, introduced into or otherwise applied to the human body for cleansing.

- 1 beautifying, promoting attractiveness or altering the appearance. "Cosmetic product"
- 2 includes any product intended for use as a component of another cosmetic product, but
- 3 does not include soap or a product that requires a prescription for distribution or
- 4 dispensing.
- 5 B. "Currently unavoidable use" means a use of PFAS that the department has
- 6 determined by rule under this section to be essential for health, safety or the functioning
- 7 of society and for which alternatives are not reasonably available.
- 8 B-1. "Essential for health, safety or the functioning of society" means a use of a PFAS
- 9 in a product when the function provided by the PFAS is necessary for the product to
- 10 perform as intended, such that the unavailability of the PFAS for use in the product
- 11 would cause the product to be unavailable, which would result in:
- 12 (1) A significant increase in negative health outcomes;
- 13 (2) An inability to mitigate significant risks to human health or the environment;
- 14 or
- 15 (3) A significant disruption of the daily functions on which society relies.
- 16 C. "Fabric treatment" means a substance applied to fabric to give the fabric one or
- 17 more characteristics, including but not limited to stain resistance or water resistance.
- 18 C-1. "Foam" has the same meaning as in section 1613, subsection 1, paragraph K.
- 19 "Foam" does not include a firefighting or fire-suppressing foam or related product
- 20 regulated under section 424-C.
- 21 D. "Intentionally added PFAS" means PFAS added to a product or one of its product
- 22 components to provide a specific characteristic, appearance or quality or to perform a
- 23 specific function. "Intentionally added PFAS" also includes any degradation by-
- 24 products of PFAS.
- 25 D-1. "Juvenile product" means a product designed or marketed for use by infants and
- 26 children under 12 years of age including, but not limited to: a baby or toddler foam
- 27 pillow; bassinet; bedside sleeper; booster seat; changing pad; child restraint system for
- 28 use in motor vehicles and aircraft; co-sleeper; crib mattress; highchair; highchair pad;
- 29 infant bouncer; infant carrier; infant seat; infant sleep positioner; infant swing; infant
- 30 travel bed; infant walker; nap cot; nursing pad; nursing pillow; play mat; playpen; play
- 31 yard; polyurethane foam mat, pad or pillow; portable foam nap mat; portable infant
- 32 sleeper; portable hook-on chair; soft-sided portable crib; stroller; and toddler mattress.
- 33 "Juvenile product" does not include an adult mattress or an electronic product marketed
- 34 for use by children under 12 years of age, including a personal computer, audio and
- 35 video equipment, calculator, wireless telephone, game console, handheld device
- 36 incorporating a video screen and any associated peripheral, such as a mouse, keyboard,
- 37 power supply unit or power cord.
- 38 D-2. "Known to or reasonably ascertainable by" means, with respect to a person, all
- 39 information in the person's possession or control as well as all information that a
- 40 reasonable person similarly situated might be expected to possess, control or know.
- 41 E. "Manufacturer" means the person that manufactures a product or whose brand name
- 42 is affixed to the product. In the case of a product imported into the United States,
- 43 "manufacturer" includes the importer or first domestic distributor of the product if the

- 1 person that manufactured or assembled the product or whose brand name is affixed to
- 2 the product does not have a presence in the United States.
- 3 E-1. "Medical device" has the same meaning as the term "device" as defined in 21
- 4 United States Code, Section 321(h).
- 5 E-2. "Off-highway vehicle" means a vehicle designed to be or marketed as capable of
- 6 off-highway operation, including, but not limited to:
- 7 (1) A motorcycle or motor-driven cycle;
- 8 (2) A snowmobile or other vehicle designed to travel over snow or ice;
- 9 (3) A sand buggy, dune buggy or similar all-terrain vehicle;
- 10 (4) A motor vehicle commonly referred to as a jeep; and
- 11 (5) A recreational off-highway vehicle.
- 12 E-3. "Outdoor apparel for severe wet conditions" means a clothing item that is an
- 13 extreme and extended use product designed for outdoor sports experts for applications
- 14 that provide protection against extended exposure to extreme rain conditions or against
- 15 extended immersion in water or wet conditions to protect the health and safety of the
- 16 user and that are not marketed for general consumer use, including, but not limited to,
- 17 such extreme and extended use products designed for offshore fishing, offshore sailing,
- 18 whitewater kayaking and mountaineering.
- 19 F. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means substances that
- 20 include any member of the class of fluorinated organic chemicals containing at least
- 21 one fully fluorinated carbon atom.
- 22 G. "Product" means an item manufactured, assembled, packaged or otherwise prepared
- 23 for sale to consumers, including its product components, sold or distributed for
- 24 personal, residential, commercial or industrial use, including for use in making other
- 25 products.
- 26 H. "Product component" means an identifiable component of a product, regardless of
- 27 whether the manufacturer of the product is the manufacturer of the component.
- 28 H-1. "Proprietary information" means information that is a trade secret or production,
- 29 commercial or financial information the disclosure of which would impair the
- 30 competitive position of the submitter and would make available information not
- 31 otherwise publicly available.
- 32 I. "Publicly owned treatment works" has the same meaning as in section 361-A.
- 33 J. "Refrigerant" has the same meaning as in section 1613, subsection 1, paragraph Y.
- 34 K. "Single-use" means, with respect to a product, conventionally disposed of after one
- 35 use or not sufficiently durable or washable to be, or not intended to be, reusable or
- 36 refillable.
- 37 L. "Ski wax" means a lubricant applied to the bottom of snow runners, including, but
- 38 not limited to, skis and snowboards, to improve grip or glide properties. "Ski wax"
- 39 includes related tuning products.
- 40 M. "Textile" means an item made in whole or in part from natural or synthetic fiber,
- 41 yarn or fabric, including, but not limited to, leather, cotton, silk, jute, hemp, wool,

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1 viscose, nylon and polyester. "Textile" does not include a single-use absorbent hygiene
 2 product or a single-use paper hygiene product, including, but not limited to, toilet
 3 paper, paper towels or tissues.

4 N. "Textile article" means a textile good of a type customarily and ordinarily used in
 5 households and businesses. "Textile article" includes, but is not limited to, apparel,
 6 accessories, handbags, backpacks, draperies, shower curtains, furnishings, upholstery,
 7 beddings, towels, napkins and tablecloths, but does not include:

- 8 (1) A carpet or rug;
- 9 (2) A treatment for use on converted textiles or leathers;
- 10 (3) A textile used in or designed for laboratory analysis and testing;
- 11 (4) A stadium shade or other architectural fabric structure; or
- 12 (5) Filtration media or a filter product used in industrial applications, including,
 13 but not limited to, chemical or pharmaceutical manufacturing and environmental
 14 control technologies.

15 O. "Upholstered furniture" means an article of furniture that is designed to be used for
 16 sitting, resting or reclining and that is wholly or partly stuffed or filled with any filling
 17 material.

18 P. "Vehicle" means a device by which any person or property may be propelled, moved
 19 or drawn upon a way but does not include such a device that is moved exclusively by
 20 human power or that is used exclusively upon stationary rails or tracks.

21 **2. Notification.** A Except as provided pursuant to paragraph D or subsection 3, a
 22 manufacturer of a product for sale in the State that contains intentionally added PFAS and
 23 for which the department has determined that the use of PFAS in the product is a currently
 24 unavoidable use in accordance with subsection 5, paragraph F shall comply with the
 25 requirements of this subsection.

26 A. Except as provided in subsection 3, by January 1, 2025, a The manufacturer of a
 27 product for sale in the State that contains intentionally added PFAS shall submit to the
 28 department a written notification that includes, to the extent known to or reasonably
 29 ascertainable by the manufacturer:

- 30 (1) A brief description of the product, including an estimate of the total number of
 31 units of the product sold annually in the State or nationally;
- 32 (2) The purpose for which PFAS are used in the product, including in any product
 33 components;
- 34 (3) The amount of each of the PFAS, identified by its chemical abstracts service
 35 registry number or in the absence of this number a description approved by the
 36 department, in the product, reported as an exact quantity, or as the amount of total
 37 organic fluorine if the amount of each of the PFAS compound is not known,
 38 determined using commercially available analytical methods or based on
 39 information provided by a supplier as falling within a range approved for reporting
 40 purposes by the department or, if the manufacturer is unable to provide information
 41 regarding the amount of each of the PFAS in the product, the total weight of the
 42 product;

- 1 (4) The name and address of the manufacturer, and the name, address and phone
- 2 number of a contact person for the manufacturer; ~~and~~
- 3 (4-A) The identification of the applicable determination adopted by the department
- 4 by rule pursuant to subsection 5, paragraph F that the use of PFAS in the product
- 5 is a currently unavoidable use; and
- 6 (5) Any additional information ~~established~~ required by the department by rule as
- 7 ~~necessary to implement the requirements of this section.~~
- 8 A-1. At the time the manufacturer submits to the department the written notice required
- 9 in paragraph A, the manufacturer shall also pay to the department the applicable fee
- 10 established by the department by rule pursuant to subsection 6.
- 11 B. With the approval of the department, a the manufacturer may supply the information
- 12 required in paragraph A for a category or type of product rather than for each individual
- 13 product.
- 14 C. In accordance with rules adopted by the department, a the manufacturer shall update
- 15 and revise the information in the written notification whenever there is significant
- 16 change in the information or when requested to do so by the department.
- 17 D. The requirements of this subsection do not apply to a manufacturer that employs
- 18 ~~25~~ 100 or fewer people.
- 19 **3. Waiver of notification; coordination with other states; ~~extension of deadline.~~**
- 20 The department may waive all or part of the notification requirement under subsection 2 if
- 21 the department determines that substantially equivalent information is already publicly
- 22 available. The department may enter into an agreement with one or more other states or
- 23 political subdivisions of a state to collect notifications and may accept notifications to a
- 24 shared system as meeting the notification requirement under subsection 2. ~~The department~~
- 25 ~~may extend the deadline for submission by a manufacturer of the information required~~
- 26 ~~under subsection 2 if the department determines that more time is needed by the~~
- 27 ~~manufacturer to comply with the submission requirement.~~
- 28 **4. Exemptions.** The following are exempt from this section:
- 29 A. A product for which federal law governs the presence of PFAS in the product in a
- 30 manner that preempts state authority;
- 31 B. A package, as defined in Title 32, section 1732, subsection 4, for a product, except
- 32 when the package is the product of the manufacturer. The exemption under this
- 33 paragraph does not apply to the package of a product prohibited from sale, offer for
- 34 sale or distribution for sale pursuant to subsection 5, paragraph B, B-1, D or E if that
- 35 package is a fluorinated container or a container that otherwise contains intentionally
- 36 added PFAS; and
- 37 C. A used product or used product component;
- 38 D. A firefighting or fire-suppressing foam or related product regulated under section
- 39 424-C;
- 40 E. A prosthetic or orthotic device or any product that is a medical device, drug or
- 41 biologic or that is otherwise used in a medical setting or in medical applications that

1 are regulated by or under the jurisdiction of the United States Food and Drug
 2 Administration;

3 F. A veterinary product intended for use in or on animals, including diagnostic
 4 equipment or test kits and their components and any product that is a veterinary medical
 5 device, drug, biologic or parasiticide or that is otherwise used in a veterinary medical
 6 setting or in veterinary medical applications that are regulated by or under the
 7 jurisdiction of:

8 (1) The United States Food and Drug Administration;

9 (2) The United States Department of Agriculture pursuant to the federal Virus-
 10 Serum-Toxin Act; or

11 (3) The United States Environmental Protection Agency pursuant to the Federal
 12 Insecticide, Fungicide, and Rodenticide Act, except that any such products
 13 approved by the United States Environmental Protection Agency pursuant to that
 14 law for aerial or land application are not exempt from this section;

15 G. A product developed or manufactured for the purposes of public health,
 16 environmental or water quality testing;

17 H. A product required to meet standards or requirements of the United States
 18 Department of Transportation, Federal Aviation Administration, the National
 19 Aeronautics and Space Administration, the United States Department of Defense or the
 20 United States Department of Homeland Security, except that the exemption under this
 21 paragraph does not apply to any textile article or refrigerant that is included in or as a
 22 component part of such products;

23 I. A motor vehicle or motor vehicle equipment regulated under a federal motor vehicle
 24 safety standard, as defined in 49 United States Code, Section 30102(a)(10), and any
 25 other motor vehicle, including an off-highway vehicle or specialty motor vehicle, such
 26 as an all-terrain vehicle, side-by-side vehicle, farm equipment or personal assistive
 27 mobility device, except that the exemption under this paragraph does not apply to any
 28 textile article or refrigerant that is included in or as a component part of such products;

29 J. A watercraft, as defined in Title 12, section 13001, subsection 28, or a seaplane,
 30 except that the exemption under this paragraph does not apply to any textile article or
 31 refrigerant that is included in or as a component part of such products;

32 K. A semiconductor, including semiconductors incorporated in electronic equipment,
 33 and equipment and materials used in the manufacture of semiconductors;

34 L. Nonconsumer electronics and nonconsumer laboratory equipment not ordinarily
 35 used for personal, family or household purposes; and

36 M. Equipment directly used in the manufacture or development of the products
 37 described in paragraphs E to L.

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

40 A. ~~Effective~~ Except as provided pursuant to paragraph F or G, effective January 1,
 41 2023, a person may not sell, offer for sale or distribute for sale in this State a carpet or
 42 rug that contains intentionally added PFAS. ~~This~~ The prohibition under this paragraph

1 does not apply to the sale, offer for sale or resale distribution for sale of a used any
2 carpet or rug in used condition.

3 B. Effective Except as provided pursuant to paragraph F or G, effective January 1,
4 2023, a person may not sell, offer for sale or distribute for sale in this State a fabric
5 treatment that contains intentionally added PFAS. This prohibition does not apply to
6 the sale or resale of a used fabric treatment.

7 The prohibition under this paragraph applies to a fabric treatment that does not contain
8 intentionally added PFAS but that is sold, offered for sale or distributed for sale in a
9 fluorinated container or in a container that otherwise contains intentionally added
10 PFAS. The prohibition under this paragraph does not apply to the sale, offer for sale
11 or distribution for sale of any fabric treatment in used condition.

12 B-1. Except as provided pursuant to paragraph F or G, effective January 1, 2026, a
13 person may not sell, offer for sale or distribute for sale in this State:

- 14 (1) A cleaning product containing intentionally added PFAS;
- 15 (2) A cookware product containing intentionally added PFAS;
- 16 (3) A cosmetic product containing intentionally added PFAS;
- 17 (4) Dental floss containing intentionally added PFAS;
- 18 (5) A juvenile product containing intentionally added PFAS;
- 19 (6) A menstruation product containing intentionally added PFAS;
- 20 (7) A textile article containing intentionally added PFAS. The prohibition under
21 this subparagraph does not include:
 - 22 (a) Outdoor apparel for severe wet conditions; or
 - 23 (b) A textile article that is included in or a component part of a watercraft,
24 aircraft or motor vehicle, including an off-highway vehicle;
- 25 (8) Ski wax containing intentionally added PFAS; or
- 26 (9) Upholstered furniture containing intentionally added PFAS.

27 The prohibition under this paragraph applies to any of the products listed in
28 subparagraphs (1) to (9) that do not contain intentionally added PFAS but that are sold,
29 offered for sale or distributed for sale in a fluorinated container or in a container that
30 otherwise contains intentionally added PFAS. The prohibition under this paragraph
31 does not apply to any of the products listed in subparagraphs (1) to (9) that are sold,
32 offered for sale or distributed for sale in used condition.

33 B-2. Except as provided pursuant to paragraph F or G, effective January 1, 2029, a
34 person may not sell, offer for sale or distribute for sale in this State:

- 35 (1) Artificial turf containing intentionally added PFAS; or
- 36 (2) Outdoor apparel for severe wet conditions containing intentionally added
37 PFAS, unless the apparel is accompanied by a legible, easily discernable disclosure
38 that includes the following statement: "Made with PFAS chemicals." The
39 disclosure requirement under this subparagraph applies to all sales, offers for sale

1 or distributions for sale in this State of outdoor apparel for severe wet conditions
 2 containing intentionally added PFAS, including those conducted using the Internet.

3 The prohibition under this paragraph does not apply to any of the products listed in
 4 subparagraphs (1) and (2) that are sold, offered for sale or distributed for sale in used
 5 condition.

6 C. The department may by rule identify products by category or use that may not be
 7 sold, offered for sale or distributed for sale in this State if they contain intentionally
 8 added PFAS. The department shall prioritize the prohibition of the sale of product
 9 categories that, in the department's judgment, are most likely to cause contamination
 10 of the State's land or water resources if they contain intentionally added PFAS.
 11 ~~Products in which the use of PFAS is a currently unavoidable use as determined by the~~
 12 ~~department may be exempted by the department by rule.~~ The department may not
 13 prohibit by rule pursuant to this paragraph the sale, offer for sale or resale distribution
 14 for sale of used products in used condition.

15 Rules adopted pursuant to this paragraph are major substantive rules as defined in Title
 16 5, chapter 375, subchapter 2-A.

17 D. ~~Effective~~ Except as otherwise provided in this paragraph or pursuant to paragraph
 18 F or G, effective January 1, 2030 2032, a person may not sell, offer for sale or distribute
 19 for sale in this State any product that contains intentionally added PFAS that is not
 20 already prohibited from sale, offer for sale or distribution for sale pursuant to paragraph
 21 A, B, B-1, B-2 or C, unless the department has determined by rule in accordance with
 22 paragraph F that the use of PFAS in the product is a currently unavoidable use. ~~The~~
 23 ~~department may specify specific products or product categories in which it has~~
 24 ~~determined the use of PFAS is a currently unavoidable use.~~ This prohibition does not
 25 apply to the sale or resale of used products.

26 The prohibition under this paragraph applies to any such products that do not contain
 27 intentionally added PFAS but that are sold, offered for sale or distributed for sale in a
 28 fluorinated container or in a container that otherwise contains intentionally added
 29 PFAS. The prohibition under this paragraph does not apply to:

- 30 (1) Any such products sold, offered for sale or distributed for sale in used
 31 condition;
- 32 (2) Cooling, heating, ventilation, air conditioning and refrigeration equipment,
 33 including parts and other servicing needs for such equipment; or
- 34 (3) Refrigerants, foams and aerosol propellants that are listed as acceptable,
 35 acceptable subject to use conditions or acceptable subject to narrowed use limits
 36 by the United States Environmental Protection Agency pursuant to the Significant
 37 New Alternatives Policy program, 40 Code of Federal Regulations, Part 82,
 38 Subpart G, as long as the refrigerant, foam or aerosol propellant is sold, offered for
 39 sale or distributed for sale for the use for which it is listed pursuant to that program.

40 E. Except as provided pursuant to paragraph F or G, effective January 1, 2040, a person
 41 may not sell, offer for sale or distribute for sale in this State:

- 42 (1) Cooling, heating, ventilation, air conditioning or refrigeration equipment that
 43 contains intentionally added PFAS; or

1 (2) Refrigerants, foams or aerosol propellants that contain intentionally added
 2 PFAS.

3 The prohibition under this paragraph applies to any of the products listed in
 4 subparagraphs (1) and (2) that do not contain intentionally added PFAS but that are
 5 sold, offered for sale or distributed for sale in a fluorinated container or in a container
 6 that otherwise contains intentionally added PFAS. The prohibition under this
 7 paragraph does not apply to any such products sold, offered for sale or distributed for
 8 sale in used condition or to parts and other servicing needs for cooling, heating,
 9 ventilation, air conditioning or refrigeration equipment, including refrigerants used in
 10 the servicing of such equipment as long as the refrigerant is listed as acceptable,
 11 acceptable subject to use conditions or acceptable subject to narrowed use limits by the
 12 United States Environmental Protection Agency pursuant to the Significant New
 13 Alternatives Policy program, 40 Code of Federal Regulations, Part 82, Subpart G and
 14 sold, offered for sale or distributed for sale for the use for which the refrigerant is listed
 15 pursuant to that program.

16 F. The department may by rule identify specific products or product categories
 17 containing intentionally added PFAS for which it has determined the use of PFAS in
 18 the product is a currently unavoidable use. If the department determines by rule that
 19 the use of PFAS in a product or product category is a currently unavoidable use:

20 (1) The product is exempt from the otherwise applicable prohibition in this
 21 subsection, or in the rules adopted pursuant to paragraph C, on the sale, offer for
 22 sale or distribution for sale of the product for one of the following periods of time,
 23 whichever provides a longer period of exemption:

24 (a) Five years from the effective date of the rule determining that the use of
 25 PFAS in the product or product category is a currently unavoidable use; or

26 (b) Five years from the effective date of the otherwise applicable prohibition
 27 in this subsection or in the rules adopted pursuant to paragraph C; and

28 (2) A manufacturer of the product that sells, offers for sale or distributes for sale
 29 the product in this State shall comply with the notification requirement of
 30 subsection 2.

31 G. The prohibitions in this subsection do not apply to a retailer in the State unless the
 32 retailer sells, offers for sale or distributes for sale a product containing intentionally
 33 added PFAS in the State for which the retailer has received a notification pursuant to
 34 subsection 8, paragraph B that the sale of the product is prohibited.

35 6. Fees. The department may establish by rule and assess a fee payable by a
 36 manufacturer upon submission of the notification required under that is required to comply
 37 with the notification requirement of subsection 2 to cover the department's reasonable costs
 38 in developing rules under subsection 5, paragraphs C and D and administering the
 39 requirements of subsections 2 and 9 this section. Notwithstanding Title 5, section 8071,
 40 rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
 41 chapter 375, subchapter 2-A.

42 7. Failure to provide notice. Beginning January 1, 2025 2032, a person may not sell,
 43 offer for sale or distribute for sale in the State a product containing intentionally added
 44 PFAS for which the department has determined that the use of PFAS in the product is a

1 currently unavoidable use pursuant to subsection 5, paragraph F if the manufacturer of the
 2 product has failed to provide the information required under subsection 2, ~~except that this~~
 3 ~~prohibition does not apply to.~~ This prohibition does not apply to a retailer in the State
 4 unless the retailer sells, offers for sale or distributes for sale a product containing
 5 intentionally added PFAS in the State for which the retailer has received a notification
 6 pursuant to subsection 8, paragraph B that the sale of the product is prohibited.

7 ~~A. A product exempted from the prohibition under this subsection by the department~~
 8 ~~upon a determination by the department that the use of PFAS in the product is a~~
 9 ~~currently unavoidable use;~~

10 ~~B. A retailer in the State unless the retailer sells, offers for sale or distributes for sale~~
 11 ~~in the State a product for which the retailer has received a notification pursuant to~~
 12 ~~subsection 8, paragraph B that the sale of the product is prohibited;~~

13 ~~C. A manufacturer exempted from the notification requirement pursuant to subsection~~
 14 ~~2, paragraph D;~~

15 ~~D. A product for which the department has waived the notification requirement~~
 16 ~~pursuant to subsection 3; and~~

17 ~~E. A manufacturer that pursuant to subsection 3 has received from the department an~~
 18 ~~extension of the deadline for submission of the information required by subsection 2.~~
 19 ~~The exception under this paragraph applies only for the duration of the extension~~
 20 ~~provided by the department.~~

21 **8. Certificate of compliance.** If the department has reason to believe that a product
 22 contains intentionally added PFAS and is being sold, offered for sale or distributed for sale
 23 in violation of subsection 5 or 7, the department may direct the manufacturer of the product
 24 to, within 30 days:

25 A. Provide the department with ~~the~~ a certificate attesting that the product does not
 26 contain intentionally added PFAS; or

27 B. Notify persons ~~who sell~~ that sell, offer for sale or distribute for sale the product in
 28 this State that the sale of ~~that~~ the product is prohibited in this State and provide the
 29 department with a list of the names and addresses of those persons notified.

30 **9. PFAS source reduction program.** To the extent funds are available and in
 31 consultation with relevant stakeholders, the department shall develop and implement a
 32 program to reduce the presence of PFAS in discharges to air, water and land by encouraging
 33 the use of safer alternatives to and the proper management of materials containing PFAS.
 34 The program may include:

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

36 B. Education of the general public;

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

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

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

3 **10. Rules.** The department shall adopt rules to implement this section. Except as
4 provided in subsection 5, paragraph C, rules adopted to implement this section are routine
5 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

6 **11. Report.** By January 1, 2026, and biennially thereafter, the department shall submit
7 to the joint standing committee of the Legislature having jurisdiction over environment and
8 natural resources matters a report regarding the implementation of this section and other
9 state and federal laws governing the presence of PFAS in products, including any
10 recommendations for necessary legislative changes to this section. After reviewing the
11 report, the committee may report out legislation relating to the report.

12 **12. Proprietary information.** Proprietary information submitted to the department
13 by a manufacturer pursuant to the requirements of this section that is identified by the
14 manufacturer as proprietary information is confidential and must be handled by the
15 department in the same manner as confidential information is handled under section
16 1310-B.

17 **Sec. 2. Department of Environmental Protection; report.** The Department of
18 Environmental Protection shall evaluate the feasibility of and develop recommendations as
19 appropriate regarding the implementation of one or more product stewardship programs
20 for any of the products containing intentionally added PFAS that are identified in the Maine
21 Revised Statutes, Title 38, section 1614, subsection 4, paragraphs H to L or subsection 5,
22 paragraph E, subparagraphs (1) and (2). The department shall include its findings and any
23 recommendations from that evaluation in the report required by Title 38, section 1614,
24 subsection 11 and due January 1, 2026 to the joint standing committee of the Legislature
25 having jurisdiction over environment and natural resources matters.'

26 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
27 number to read consecutively.

28 **SUMMARY**

29 This amendment replaces the bill and changes the title. It amends the laws governing
30 products containing perfluoroalkyl and polyfluoroalkyl substances, or PFAS, as follows.

31 1. It amends the manufacturer notification requirement to provide that a manufacturer
32 is only required to submit to the Department of Environmental Protection information
33 regarding a product containing intentionally added PFAS that the manufacturer sells, offers
34 for sale or distributes for sale in this State if the sale of that product is otherwise prohibited
35 and the department has determined by rule that the use of PFAS in the product is a currently
36 unavoidable use. A manufacturer that submits such a notification must at the same time
37 pay to the department a fee established by the department by rule to cover the department's
38 costs in administering the law.

39 2. It provides that, effective January 1, 2026, a person may not sell, offer for sale or
40 distribute for sale in this State any of the following products containing intentionally added
41 PFAS: a cleaning product, a cookware product, a cosmetic product, dental floss, a juvenile
42 product, a menstruation product, a textile article, ski wax or upholstered furniture. This

1 prohibition does not apply to any such product for which the department has determined
2 by rule that the use of PFAS in the product is a currently unavoidable use.

3 3. It provides that, effective January 1, 2029, a person may not sell, offer for sale or
4 distribute for sale in this State any of the following products containing intentionally added
5 PFAS: artificial turf or, except where accompanied by a disclosure regarding PFAS in the
6 product, outdoor apparel for severe wet conditions. This prohibition does not apply to any
7 such product for which the department has determined by rule that the use of PFAS in the
8 product is a currently unavoidable use.

9 4. It provides that, effective January 1, 2032, a person may not sell, offer for sale or
10 distribute for sale in this State any products containing intentionally added PFAS not
11 already prohibited from sale, offer for sale or distribution for sale in this State, excluding
12 cooling, heating, ventilation, air conditioning and refrigeration equipment and certain
13 refrigerants, foams and aerosol propellants. This prohibition does not apply to any such
14 product for which the department has determined by rule that the use of PFAS in the
15 product is a currently unavoidable use.

16 5. It provides that, effective January 1, 2040, a person may not sell, offer for sale or
17 distribute for sale in this State any cooling, heating, ventilation, air conditioning or
18 refrigeration equipment or any refrigerants, foams or aerosol propellants that contain
19 intentionally added PFAS. This prohibition does not apply to any such product for which
20 the department has determined by rule that the use of PFAS in the product is a currently
21 unavoidable use.

22 6. It exempts from the requirements of the law a number of categories of products,
23 including firefighting foams; federally regulated medical products and federally regulated
24 veterinary medical products; certain public health, environmental and water quality testing
25 products; products required to meet certain federal standards or requirements; motor
26 vehicles and motor vehicle equipment; watercraft and seaplanes; semiconductors; and
27 certain nonconsumer electronics and nonconsumer laboratory equipment.

28 7. It stipulates the process by which the department may by rule determine that the use
29 of PFAS in a product or product category is a currently unavoidable use. A product or
30 product category for which the department determines the use of PFAS is a currently
31 unavoidable use is exempt from an otherwise applicable sales prohibition for one of the
32 following periods of time, whichever provides a longer period of exemption: 5 years from
33 the effective date of the rule determining that the use of PFAS in the product or product
34 category is a currently unavoidable use, or 5 years from the effective date of the otherwise
35 applicable sales prohibition.

36 8. It requires the department, by January 1, 2026, and biennially thereafter, to submit
37 to the joint standing committee of the Legislature having jurisdiction over environment and
38 natural resources matters a report regarding implementation of the law and other state and
39 federal laws governing the presence of PFAS in products, including any recommendations
40 for necessary legislative changes. The amendment specifies that for this report due January
41 1, 2026, the department must include findings and recommendations resulting from an
42 evaluation regarding the feasibility of implementing one or more product stewardship
43 programs for certain regulated products containing intentionally added PFAS that are
44 exempted from or otherwise regulated under the law.



131st MAINE LEGISLATURE

LD 1537

LR 1431(02)

An Act to Amend the Laws Relating to the Prevention of Perfluoroalkyl and Polyfluoroalkyl Substances Pollution and to Provide Additional Funding

Fiscal Note for Bill as Amended by Committee Amendment "A" (5683)
Committee: Environment and Natural Resources
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Any additional costs to the Department of Environmental Protection to implement the provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources.