

HOUSE No. 4818

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 2, 2022.

The committee on Public Health to whom was referred the petition (accompanied by bill, House, No. 2350) of Jack Patrick Lewis and others for legislation to further regulate PFAS chemicals in consumer products, reports recommending that the accompanying bill (House, No. 4818) ought to pass.

For the committee,

MARJORIE C. DECKER.

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**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act restricting toxic PFAS chemicals in consumer products to protect our health.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 111 of the General Laws is hereby amended by inserting after
2 section 5S the following section:-

3 Section 5T. (a) As used in this section, the following words, unless the context clearly
4 requires otherwise, shall have the following meanings:-

5 “Child passenger restraint”, a child passenger restraint under section 7AA of chapter 90.

6 “Children’s products”, a consumer product, including its product components, intended,
7 made or marketed for use by children 12 years of age or under, not including medical devices.

8 “Cookware”, durable houseware items that are used in homes and restaurants to prepare,
9 dispense, or store food, foodstuffs, or beverages, including, but not limited to, pots, pans, skillets,
10 grills, baking sheets, baking molds, trays, bowls, and cooking utensils.

11 “Current unavoidable use”, a use of PFAS that the department has determined under this
12 section to be essential for health, safety or the functioning of society and for which alternatives
13 are not reasonably available.

14 “Fabric treatment”, a substance applied to fabric, carpets, rugs, shoes or textiles to impart
15 characteristics, including, but not limited to, stain resistance or water resistance.

16 “Intentionally added”, the addition of a chemical to a final product or product component
17 for the purpose of providing a specific characteristic, appearance or quality or to perform a
18 specific function in the product or product component, including PFAS substances that are
19 intentional chemical breakdown products or derivatives of an added chemical that also have a
20 specific function in the product or product component.

21 “Manufacturer”, the person that manufactures a product of whose brand name is affixed
22 to the product. In the case of a product imported into the United States, “manufacturer” includes
23 the importer or first domestic distributor of the product if the person that manufactured or
24 assembled or whose brand name is affixed to the product does not have a presence in the United
25 States.

26 “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS substances”, a class of
27 fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

28 “Personal care products”, articles intended to be rubbed, poured, sprinkled, or sprayed on,
29 introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting
30 attractiveness, or altering the appearance; provided, personal care products shall include products
31 such as skin moisturizers, perfumes, lipsticks, fingernail polishes, eye and facial makeup
32 preparations, shampoos, permanent waves, hair colors, toothpastes, sunscreen, hair spray,

33 shaving cream and deodorants, as well as any material intended for use as a component of a
34 cosmetic product; and provided further that personal care products shall also include disposable
35 menstrual products such as sanitary napkins, tampons, and underwear liners.

36 “Product component”, a component of a product, including the product’s ingredients or a
37 part of the product, regardless of whether the manufacturer of the product is the manufacturer of
38 the component.

39 “Rugs and carpets”, fabric used to or marketed to cover floors.

40 'Upholstered furniture", upholstered furniture as defined in section 270 of chapter 94.

41 (b) Effective January 1, 2023, no person shall offer for sale, sell, or distribute in the
42 commonwealth any of the following products to which PFAS substances have been intentionally
43 added or, if not intentionally added, in which PFAS substances are present and measurable by
44 testing for total fluorine at a level greater than 1 part per million:

45 (1) child passenger restraints;

46 (2) cookware;

47 (3) fabric treatments;

48 (4) personal care products;

49 (5) rugs and carpets; and

50 (6) upholstered furniture.

51 (7) children’s products

52 (c) The prohibitions of subsection (b) shall not apply to the sale or resale of used
53 products, and shall not apply to a retailer unless the retailer sells the product knowing that the
54 product contains PFAS substances.

55 (d) The department of public health shall, in coordination with the Interstate Chemicals
56 Clearinghouse, establish, on or before June 1, 2024, a publicly accessible reporting platform to
57 collect information about PFAS and products or product components containing PFAS
58 substances being sold, offered for sale, distributed, or offered for promotional purposes in, or
59 imported into, the state.

60 (e) On or before June 1, 2025, and on or before June 1 of each year thereafter, a
61 manufacturer of PFAS or a product or product component containing regulated PFAS substances
62 that is sold, offered for sale, distributed, or offered for promotional purposes in, or imported into,
63 the state shall register the PFAS or the product or product component containing regulated PFAS
64 substances on the publicly accessible reporting platform created pursuant to subsection (f), along
65 with all of the following information, as applicable:

66 (1) The name and type of product or product component containing regulated PFAS
67 substances.

68 (2) The universal product code, or “UPC”, of the product or product component
69 containing regulated PFAS substances.

70 (3) How the PFAS are, or the product or product component containing regulated PFAS
71 substances are, used by businesses or consumers.

72 (4) (A) The specific names of all PFAS compounds in the product or product

73 component containing regulated PFAS substances and the Chemical Abstracts Service
74 Registry Number, also known as a “CAS Registry Number” or “CAS RN,” of each PFAS
75 compound.

76 (B) If the CAS RN is not available, the amount or weight of PFAS measured as total
77 organic fluorine in the product or product component containing regulated PFAS per individual
78 analyte.

79 (5) The amount of the product or the product component or the numbers of products or
80 product components sold, delivered, or imported into the state.

81 (6) The name and address of the manufacturer, and the name, address, and phone
82 number of the contact person for the manufacturer.

83 (7) Any additional information established by the department as necessary to implement
84 the requirements of this section.

85 (f) With the approval of the department, a manufacturer may supply the information
86 required in subsection (e) for a category or type of product rather than for each individual
87 product.

88 (g) In a manner determined by the department, a manufacturer shall update and revise the
89 information required under subsection (e) whenever there is a significant change in the
90 information or when requested to do so by the department.

91 (h) The department may identify any additional products by category or use that may not
92 be sold, offered for sale or distributed for sale if they contain intentionally added PFAS.

93 The department shall prioritize the prohibition of the sale of products or product categories

94 that, in the department's judgment, are most likely to cause contamination of land or water
95 resources if they contain intentionally added PFAS. Products or product categories in which the
96 use of PFAS is a currently unavoidable use, as determined by the department, may be
97 exempted by the department at intervals of no more than 3 years.

98 (i) Effective January 1, 2030, no person shall offer for sale, sell, or distribute in the
99 commonwealth any product which PFAS substances have been intentionally added or, if not
100 intentionally added, in which PFAS substances are present and measurable by testing for
101 total fluorine at a level greater than 1 part per million, unless the department has determined
102 that the use of PFAS substances in the product is currently unavoidable use.

103 (j) The prohibitions of subsection (i) shall not apply to the sale or resale of used products,
104 and shall not apply to a retailer unless the retailer sells the product knowing that the
105 product contains PFAS substances.

106 (k) If the department has reason to believe that a product contains intentionally added
107 PFAS substances or, if not intentionally added, in which PFAS substances are present and
108 measurable by testing for total fluorine at a level greater than 1 part per million and is being
109 offered for sale in violation of this section, the department, attorney general, or other agency of
110 the commonwealth may direct the manufacturer of the product to, within 30 days:

111 (1) Provide the department with a certification attesting that the product does not contain
112 intentionally added PFAS substances and that it has tested the product for total fluorine and
113 determined that PFAS substances are not present in the product at a level greater than 1 part per
114 million.; or

115 (2) Notify persons who sell the product that the sale of the product is prohibited and
116 provide the department with a list of names and addresses of those notified.

117 (l) The department may establish by regulation and assess a fee payable by a
118 manufacturer upon submission of the notification required under subsections (e) to cover the
119 department's reasonable costs in developing and administering this section.

120 (m) The department shall adopt regulations to implement this section.

121 (n) The attorney general shall have the authority to enforce the provisions of this section
122 under section 4 of chapter 93A.