

CHAPTER 202

AN ACT concerning perfluoroalkyl and polyfluoroalkyl substances, supplementing Title 13 and Title 56 of the Revised Statutes, and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.56:3-53 Short title.

1. This act shall be known and may be cited as the “Protecting Against Forever Chemicals Act.”

C.56:3-54 Findings, declarations.

2. The Legislature finds and declares: that perfluoroalkyl and polyfluoroalkyl substances, or PFAS, are man-made chemical compounds that have multiple fluorine atoms bonded to a chain of carbon atoms; that there are several thousand different types of PFAS, and new types are invented on a nearly daily basis; that since the 1930s, PFAS have been widely used in countless consumer products because they repel oil, water, and grease; and that PFAS continue to be used across a variety of industries for a variety of purposes and are ultimately contained in many of the products sold in the State.

The Legislature further finds and declares: that the carbon-fluorine bond used to make PFAS is one of the strongest chemical bonds and does not break down under typical environmental conditions; that PFAS are nicknamed “forever chemicals” because they accumulate in the environment, rather than break down, over time; that PFAS enter the environment through manufacturing processes and waste streams, and humans are exposed through contaminated food, dust, air, drinking water, and certain consumer products; that human exposure to these chemicals has been linked to endocrine disruption, cancer, immunotoxicity, and developmental impacts; and that PFAS have been detected in the blood serum of 98 percent of humans tested.

The Legislature further finds and declares: that contamination of air, soil, and water in the State from PFAS poses a significant threat to the environment of the State and to the health of its citizens; that the full extent of PFAS contamination in the State is not presently known, but is anticipated to be widespread and to require a significant expenditure of resources to identify and remediate; and that, to address the imminent threat of further contamination of air, soil, and water in the State and protect the public health of citizens in the State, it is imperative to conduct PFAS-related research within the State and to phase out the sale of certain nonessential products containing PFAS.

The Legislature therefore determines that it is in the best interest of the residents of New Jersey for PFAS to be prohibited from being intentionally added to certain products being manufactured and sold within the State, for manufacturers of cookware products containing PFAS to notify consumers about the presence of PFAS in their products, and for educational programming and research concerning PFAS to be available to residents in the State.

C.56:3-55 Definitions.

3. As used in sections 1 through 11 of this act:

“Carpet” means a rug or fabric marketed or intended for use as a floor covering.

“Cookware” means durable houseware items that are used to prepare, dispense, or store food, foodstuffs, or beverages that are intended for direct food contact, and that are items to which heat is transferred or which come into direct contact with a heat source, including pots, pans, skillets, grills, baking sheets, baking molds, trays, bowls, and cooking utensils. “Cookware” does not include products that are intended for commercial use only.

“Cosmetic” means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

“Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.

“Fabric treatment” means a substance applied to fabric to give the fabric one or more characteristics, including, but not limited to, stain resistance or water resistance.

“Food packaging” means a nondurable package, packaging component, or food service ware that is intended to contain, serve, store, handle, protect, or market food, foodstuffs, or beverages, and is composed, in substantial part, of paper, paperboard, or other materials originally derived from plant fibers. “Food packaging” includes food or beverage containers, take-out food containers, unit product boxes, liners, wrappers, serving vessels, eating utensils, straws, food boxes, and disposable plates, bowls, or trays.

“Intentionally added PFAS” means PFAS added to a product or intentionally used during the development of a product or one of its product components to provide a specific characteristic, appearance, or quality or to perform a specific function. “Intentionally added PFAS” also includes any degradation byproducts of PFAS. “Intentionally added PFAS” shall not include a technically unavoidable trace quantity of PFAS which stems from impurities of natural or synthetic ingredients or the manufacturing process, storage, or migration from packaging of the product or product component.

“Internal component” means an internal part of a product, whether permanently affixed or removable, that is designed and intended to not be touched by a person during the intended use or handling of the product. “Internal component” includes parts of a product used for holding batteries, regardless of whether the parts are touched when replacing batteries.

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

“Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means substances that include any member of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

“Product” means an item manufactured, assembled, packaged, or otherwise prepared for sale to consumers, including its product components, which is sold or distributed for personal, residential, commercial, or industrial use, including for use in making other products.

“Product component” means an identifiable component of a product, regardless of whether the manufacturer of the product is the manufacturer of the component.

“Product label” means a display of written, printed, or graphic material that appears on, or is affixed to, the exterior of a product, or its exterior container or wrapper that is visible to a consumer, if the product has an exterior container or wrapper.

C.56:3-56 Cosmetic products containing intentionally added PFAS.

4. a. Beginning two years after the effective date of this act, no person shall sell, offer for sale, or distribute for sale in the State any cosmetic product that contains intentionally added PFAS.

b. If a cosmetic product contains a technically unavoidable trace quantity of PFAS, which stems from impurities of natural or synthetic ingredients or the manufacturing process, storage,

or migration from packaging of the cosmetic product, that trace quantity shall not cause the product to be in violation of this section.

c. The provisions of this section shall not apply to a product that contains intentionally added PFAS only in electronic components or internal components of the product.

C.56:3-57 Carpet or fabric treatment containing intentionally added PFAS.

5. a. Beginning two years after the effective date of this act, no person shall sell, offer for sale, or distribute for sale in the State a carpet or fabric treatment that contains intentionally added PFAS. This prohibition shall not apply to the sale or resale of a used carpet or fabric treatment.

b. If a carpet or fabric treatment contains a technically unavoidable trace quantity of PFAS, which stems from impurities of natural or synthetic ingredients or the manufacturing process, storage, or migration from packaging of the product, that trace quantity shall not cause the product to be in violation of this section.

C.56:3-58 Food packaging containing intentionally added PFAS.

6. a. Beginning two years after the effective date of this act, no person shall sell, offer for sale, or distribute for sale in the State any food packaging that contains intentionally added PFAS.

b. If a food packaging product contains a technically unavoidable trace quantity of PFAS, which stems from impurities of natural or synthetic ingredients or the manufacturing process, storage, or migration from packaging of the product, that trace quantity shall not cause the product to be in violation of this section.

C.56:3-59 Manufacturers of cookware containing intentionally added PFAS.

7. a. Beginning two years after the effective date of this act, a manufacturer of cookware sold in the State that contains an intentionally added PFAS in the handle of the product or in any product surface that comes into contact with food, foodstuffs, or beverages shall list the presence of the intentionally added PFAS on the product label.

b. The product label of a cookware product containing PFAS shall include a statement, in both English and Spanish, that reads: "This product contains PFAS."

c. A manufacturer of cookware sold in the State shall ensure that the statement required on the product label pursuant to subsection b. of this section is visible and legible to the consumer, including on the product listing for online sales.

d. Beginning two years after the effective date of this act, a manufacturer shall not make a claim, on the product label or Internet website for the cookware product, that the cookware is free of PFAS if PFAS were intentionally added to the cookware.

e. Cookware that meets both of the following requirements shall be exempt from the labeling requirements of this section:

- (1) the surface area of the cookware cannot fit a product label of at least two square inches; and
- (2) the cookware does not have either of the following:
 - (a) an exterior container or wrapper on which a product label can appear or be affixed; or
 - (b) a tag or other attachment with information about the product attached to the cookware.

f. The provisions of this section shall not apply to a product that contains intentionally added PFAS only in electronic components or internal components of the product.

g. Notwithstanding the provisions of this section to the contrary, any cookware product with a product label that lists the presence of PFAS or a PFAS chemical pursuant to another state or federal law shall be deemed in compliance with the requirements of this section.

C.56:3-60 Cookware containing intentionally added PFAS.

8. a. Beginning two years after the effective date of this act, no person shall sell, offer for sale, or distribute for sale within the State cookware that contains PFAS unless the cookware and the manufacturer of the cookware have complied with the labeling requirements established pursuant to section 7 of this act.

b. If a cookware product contains a technically unavoidable trace quantity of PFAS, which stems from impurities of natural or synthetic ingredients or the manufacturing process, storage, or migration from packaging of the product, that trace quantity shall not cause the product to be in violation of this section.

C.56:3-61 Audits and investigations to assess manufacturer compliance.

9. The division may audit or investigate a manufacturer of a product covered under the provisions of this act to assess the manufacturer's compliance with the requirements of this act. The division shall be authorized to audit, or cause to be audited, a random sample of manufacturers of products covered under the provisions of this act in order to determine compliance with this act. A manufacturer shall cooperate fully with any audit or investigation conducted pursuant to this section. The division may require a manufacturer to pay the costs of an audit conducted pursuant to this section.

C.56:3-62 Violations.

10. a. Whenever the Division of Consumer Affairs finds that a person has violated any provision of this act, or any rule or regulation adopted pursuant thereto, including violating the provisions of subsection d. of section 7 of this act by making a false claim on the product label or Internet website for a cookware product, the division may:

(1) issue an order requiring the person found to be in violation to comply in accordance with subsection b. of this section;

(2) bring a civil action in accordance with subsection c. of this section;

(3) levy a civil administrative penalty in accordance with subsection d. of this section;

(4) bring an action for a civil penalty in accordance with subsection e. of this section;

(5) direct a manufacturer or other person that is not in compliance with the requirements of this act to stop offering for sale or distributing certain products that contain intentionally added PFAS; or

(6) notify the public of a manufacturer that is not in compliance with the requirements of this act.

The exercise of any of the remedies provided in this section shall not preclude the seeking of any other remedy specified.

b. Whenever the division finds that a person has violated this act, or any rule or regulation adopted pursuant thereto, the division may issue an administrative enforcement order specifying the provision or provisions of this act, or the rule or regulation adopted pursuant thereto, of which the person is in violation, citing the action that constituted the violation, requiring compliance with the provision violated, and giving notice to the person of the person's right to a hearing on the matters contained in the administrative enforcement order. The ordered person shall have 20 calendar days from receipt of the order within which to deliver to the division a written request for a hearing. After the hearing and upon finding that a violation has occurred, the division may issue a final order. If no hearing is requested, the order shall become final after the expiration of the 20-day period. A request for hearing shall not automatically stay the effect of the order.

c. The division is authorized to institute a civil action in Superior Court for appropriate relief from any violation of the provisions of this act, or any rule or regulation adopted pursuant thereto. This relief may include an assessment against the violator for the costs of any investigation, inspection, or audit that led to the discovery and establishment of the violation, and for the reasonable costs of preparing and litigating the case under this subsection.

d. The division is authorized to impose a civil administrative penalty of not less than \$1,000 nor more than \$20,000 for each violation, provided that each day during which the violation continues shall constitute an additional, separate, and distinct offense. In assessing a civil administrative penalty, the division shall consider the severity of the violation, the measures taken to prevent further violations, and whether the penalty will maintain an appropriate deterrent. Prior to assessment of a civil administrative penalty, the person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall identify the section of the statute, rule, regulation, or order violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil administrative penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 days from receipt of the notice within which to deliver to the division a written request for a hearing. After the hearing and upon finding that a violation has occurred, the division may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 35-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative order is in addition to all other enforcement provisions in this act, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The division may compromise any civil administrative penalty assessed under this section in an amount and with conditions the division determines appropriate.

e. A person who violates any provision of this act, or any rule or regulation adopted pursuant thereto, or an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection d. of this section, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the division shall be subject, upon order of a court, to a civil penalty not to exceed \$25,000 per day of the violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), or may be collected in a civil action commenced by the division. In addition to any penalties, costs, or interest charges, the Superior Court, or the municipal court as the case may be, may assess against the violator the amount of economic benefit accruing to the violator from the violation.

C.56:3-63 Confidentiality of proprietary information or trade secrets.

11. a. Any proprietary information or trade secrets included in any written notification, certification, or any other record submitted to the division pursuant to this act shall not be made available to the general public pursuant to P.L.1963, c.73 (C.47:1 A-1 et seq.), commonly known as the open public records act.

b. In order to identify the proprietary information or trade secrets to be protected from public disclosure pursuant to subsection a. of this section, a manufacturer shall file a trade secret claim to the division, in a form and manner determined by the division. No later than

90 days after receipt of a trade secret claim, the division shall make a determination on the validity of the trade secret claim. Upon making a determination on the validity of a trade secret claim, the division shall inform the manufacturer of the determination by certified mail. If the division determines that the manufacturer's trade secret claim is not valid, the manufacturer shall have 45 days from the receipt of the division's determination to file with the division a written request for an administrative hearing on the determination. If the manufacturer does not file such a request within 45 days, the division may take action to disclose the information for which the trade secret claim was made, pursuant to the provisions of this act. If a manufacturer requests an administrative hearing pursuant to the provisions of this subsection, the division shall refer the matter to the Office of Administrative Law, for a hearing thereon. At the hearing the manufacturer shall have the burden to show that the trade secret claim is valid. Within 45 days of receipt of the administrative law judge's recommendation, the division shall affirm, reject, or modify the recommendation. The division's action shall be considered the final agency action for the purposes of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), and shall be subject only to judicial review as provided in the Rules of Court. The division shall inform the manufacturer of its decision on the administrative law judge's recommendation by certified mail.

c. The subject of any trade secret claim pending or approved shall be treated as confidential information. The division shall not disclose any confidential information to any person except an officer or employee of the State in connection with the official duties of the officer or employee under any law for the protection of public health or the environment. Any officer or employee of the State who has access to any confidential information, and who willingly and knowingly discloses the confidential information to any person not authorized to receive it, shall be guilty of a crime of the third degree.

d. Any written notification containing information for which a trade secret claim is pending or has been approved may be made available to the public with that information concealed.

C.13:1D-71 Definitions.

12. As used in sections 12 through 14 of this act:

“Department” means the Department of Environmental Protection.

“Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means substances that include any member of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

C.13:1D-72 Management of PFAS, education, and reporting to the Governor and Legislature.

13. a. No later than one year after the effective date of this act, the department shall establish and implement a source reduction program to reduce the presence of PFAS in the State's air, water, and soil by encouraging the proper management of materials that contain PFAS and the use of safer alternatives. The program shall include, at a minimum:

- (1) informational resources targeted to industrial and commercial users of PFAS;
- (2) education of the general public concerning PFAS and its environmental and health impacts;
- (3) to the extent funds are available, grants to operators of publicly owned treatment works for the purposes of developing, expanding, or implementing pretreatment standards for PFAS and education of users on sources of PFAS and proper management;
- (4) to the extent funds are available, grants to municipalities for the purposes of educating solid waste disposal users on sources of PFAS and their proper management; and
- (5) any other information and efforts that are determined by the department to be beneficial in reducing the presence and impact of PFAS in the State.

b. No later than two years after the effective date of this act, and annually thereafter until 10 years after the effective date of this act, the department shall submit a report to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the effectiveness of the program in reducing PFAS discharges to air, water, and soil within the State and educating industrial and commercial users of PFAS and residents of the State on PFAS and their proper management.

C.13:1D-73 PFAS-related research, monitoring, and environmental testing.

14. a. The department shall conduct PFAS-related research and comprehensive monitoring and testing of the presence and impact of PFAS on the environmental media within the State, including air, ground and surface water, biota, sediment, and soil. The purpose of the department's research shall be to gain knowledge surrounding the subject of PFAS, provide insight into the proper management and mitigation of PFAS within the State, and to protect the environment from the adverse impacts of PFAS.

b. The department's research shall include, at a minimum:

(1) the collection of soil samples from throughout the State for monitoring and testing for PFAS;

(2) the collection of water samples from throughout the State for monitoring and testing for PFAS;

(3) the collection of air samples from throughout the State for monitoring and testing for PFAS;

(4) the collection of biosolids from throughout the State for monitoring and testing for PFAS;

(5) the collection of fish, plant, and animal samples from throughout the State for monitoring and testing for PFAS;

(6) the comparison of PFAS samples gathered across the State in an effort to measure levels of PFAS contamination and also determine if there are any hotspots of PFAS contamination in the State;

(7) research concerning the impact of PFAS on the State's air, water, and soil quality and ways to mitigate the negative impacts of PFAS;

(8) data collection of research findings and mitigation efforts concerning PFAS in other States and countries; and

(9) any other data collection and research that the department deems necessary to improve the current foundation of knowledge on the subject of PFAS.

c. No later than two years after the effective date of this act, and annually thereafter, the department shall provide a report to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), summarizing their research findings and activities and providing recommendations for programs, policies, and legislation to address the presence of PFAS in the State.

15. a. There is appropriated from the General Fund to the Department of Environmental Protection the sum of \$4.5 million to implement the provisions of sections 12 through 14 of this act. The department shall utilize \$2.25 million for the purposes of carrying out the source reduction program pursuant to section 13 of this act and \$2.25 million for the purposes of conducting PFAS-related research, monitoring, and testing pursuant to section 14 of this act.

b. Each year after the date of enactment of this act, the department shall submit, as a part of its annual budget, a request for sufficient funds to conduct the air, water, and soil testing and PFAS-related research required pursuant section 14 of this act.

c. There is appropriated from the General Fund to the Department of Law and Public Safety the sum of \$500,000 to implement the provisions of sections 1 through 11 of this act.

16. a. The Department of Environmental Protection may, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules or regulations necessary to implement the provisions of sections 12 through 14 of this act.

b. The Division of Consumer Affairs in the Department of Law and Public Safety may, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules or regulations necessary to implement the provisions of sections 1 through 11 of this act.

17. This act shall take effect immediately.

Approved January 12, 2026.