CONCURRENCE IN SENATE AMENDMENTS
AB 1200 (Ting)
As Amended August 23, 2021
Majority vote

SUMMARY

Prohibits, commencing January 1, 2023, the sale of food packaging that contains perfluoroalkyl and polyfluoroalkyl substances (PFAS), as specified; requires, commencing January 1, 2024, cookware manufacturers to label their product if it contains an intentionally added chemical on specified lists; and prohibits, commencing January 1, 2023, for the internet and January 1, 2024, for the cookware package, a cookware manufacturer from making a claim that cookware is free of a chemical, unless no chemical from that chemical class is intentionally added to the cookware.

Senate Amendments
Plant-Based Food Packaging Containing PFAS

1) Include straws in the definition of "food packaging."

2) Strike "but is not limited to" in the designation of the list of items included in the definition of "food packaging."

3) Change the term of prohibited PFAS from "intentionally added" PFAS to "regulated" PFAS, and include in the definition of regulated PFAS, "PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product, including, but not limited to, 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."

4) Make other conforming changes.

Chemical Disclosures for Cookware

1) Include "cooking utensils" in the definition of "cookware" and delete the inclusion of "kitchen tools, spoons and spatulas" in the definition of "cookware."

2) Strike "but is not limited to" in the designation in the list of items included in the definition of "cookware."

3) Define "intentionally added chemical," as, "a chemical that a manufacturer has intentionally added to a product and that has a functional or technical effect in the product, including, but not limited to, the components of intentionally added chemicals and intentional breakdown products of an added chemical that also have a functional or technical effect in the product."

4) Specify that labeling requirements for cookware shall only be required when the intentionally added chemical in the cookware is, "in the handle of the product or in any product surface that comes into contact with food, foodstuffs, or beverages."

5) Require the cookware manufacturer to list the presence of one or more intentionally added chemicals on the product label.

6) Delete the requirement that a manufacturer of cookware sold in the state that contains one or more intentionally added chemicals include on the product label a statement, in both English and Spanish that reads: "This product contains one or more chemicals of concern for human health or the environment as identified by the State of California. For more ingredient information, visit" [followed by additional information.]

7) Require that the list of intentionally added chemicals on the label be introduced by the phrase "This product contains:" and include on the product label a statement, in both English and Spanish, that reads: "For more information about chemicals in this product, visit," [followed by additional information.]

8) Delete the requirement that the label contain a toll-free telephone number for the manufacturer and instead require that the label contain a quick response (QR) code or other machine-readable code, consisting of an array of squares, used for storing an internet website for a web page for additional information on the product.

9) Exempt from the labeling requirements cookware that meets both of the following requirements:

    a) The surface area of the cookware cannot fit a product label of at least two square inches; and,

    b) The cookware does not have either of the following:

        i) An exterior container or wrapper on which a product label can appear or be affixed; or,

        ii) A tag or other attachment with information about the product attached to the cookware.

10) Require a manufacturer of cookware sold in the state to ensure that the statement otherwise required on a product label is included on the product listing for online sales.

11) Change the date, from January 1, 2024, to January 1, 2023, by which a manufacturer shall not make a claim on the internet website for the cookware that the cookware is free of any specific chemical if the chemical belongs to a chemical group, unless no individual chemical from that chemical group or class is intentionally added to the cookware.

12) Change the prohibition provision from, "A person shall not sell, offer for sale, or distribute in the state cookware that does not comply with the requirements of this article," to, "Cookware that contains one or more intentionally added chemicals present on the designated list in the handle of the product or in any product surface that comes into contact with food, foodstuffs, or beverages shall not be sold, offered for sale, or distributed in the state unless the cookware and the manufacturer of the cookware comply with this article."

13) Make other conforming changes.

COMMENTS

Plant-Based Food Packaging Containing PFAS

Perfluoroalkyl and polyfluoroalkyl substances (PFAS): PFAS are a class of human-made fluorinated organic chemicals that share one common trait – highly stable carbon-fluorine bonds that make them or their final degradation products extremely persistent in the environment. PFAS have been used extensively for decades in surface coating and protectant formulations for their unique ability to reduce the surface tension of liquids, including in consumer products designed to be waterproof or water resistant, grease and stain-resistant, or non-stick. During production, use, and disposal, PFAS can migrate into the soil, water, and air. As of September 2020, more than 9,000 PFAS chemicals were included in the United States Environmental Protection Agency's (US EPA's) Master List of PFAS Substances. PFAS are ubiquitous and are found in indoor and outdoor environments; in plants, wildlife, companion animals, production animals, humans; food; and, drinking water.

Exposure to PFAS: The main route of exposure to PFAS is through ingestion of contaminated food or liquid (accounting for up to half of total exposure), and through inhalation and ingestion of contaminated indoor air and dust. Food can become contaminated with PFAS through contaminated soil and water used to grow the food; food packaging containing PFAS, and equipment that uses PFAS during food processing. The Department of Toxic Substances Control (DTSC) contends that, "Plant fiber-based food packaging products treated with PFASs for grease, oil, or water resistance can expose humans and biota to PFASs during their manufacturing, use, and end-of-life." Studies have shown that PFAS can transfer from pregnant mothers to their fetuses via the placenta during gestation, as well as transfer from nursing mothers to their infants via breastfeeding. Exposure to PFAS in drinking water is an escalating concern due to the persistence of PFAS chemicals in the environment and their tendency to accumulate in groundwater.

Hazard traits of PFAS: According to DTSC, PFAS substances are either extremely persistent in the environment, or they degrade into extremely persistent PFAS, leading them to be deemed, "forever chemicals." Most PFAS are mobile in environmental media such as air and water, and thus are widespread in living organisms and the environment. Several PFAS bioaccumulate significantly in animals or plants. DTSC contends that exposure to PFAS can lead to adverse health outcomes in humans. Research suggests that exposure to PFAS may lead to increased cholesterol levels, decreased vaccine response in children, changes in liver enzymes, increased risk of high blood pressure in pregnant women, decreased infant birth weights, increased risk of kidney or testicular cancer, thyroid hormone disruption, and other reproductive, developmental, liver, kidney, and immunological effects. Some PFAS have also been linked to phytotoxicity, aquatic toxicity, and terrestrial ecotoxicity.

Regulating PFAS as a class: DTSC, in the February 2021, *Environmental Health Perspectives* article, "Regulating PFAS as a Chemical Class under the California Safer Consumer Products Program," states, "Regulating only a subset of PFAS has led to their replacement with other members of the class with similar hazards, that is, regrettable substitutions. We at the California DTSC propose regulating certain consumer products if they contain any member of the class of PFAS because: *a*) all PFAS, or their degradation, reaction, or metabolism products, display at least one common hazard trait according to the California Code of Regulations, namely environmental persistence; and *b*) certain key PFAS that are the degradation, reaction or

metabolism products, or impurities of nearly all other PFAS display additional hazard traits, including toxicity; are widespread in the environment, humans, and biota; and will continue to cause adverse impacts for as long as any PFAS continue to be used. Regulating PFAS as a class is thus logical, necessary, and forward-thinking."

Alternatives to PFAS in food packaging: DTSC's July 2020 Discussion Draft, "Product – Chemical Profile for Food Packaging Containing Perfluoroalkyl or Polyfluoroalkyl Substances," (Discussion Draft) notes that, based on well-established business cases, the Nordic Council of Ministers concluded in 2017 that safer and more sustainable alternatives to PFAS in paper and paperboard food packaging products are available for all intended functional uses and food types. The Nordic Council of Ministers also found that, except for natural greaseproof paper, which can be more expensive, alternatives are cost-neutral for retailers.

Chemical Disclosures for Cookware

Chemicals in cookware: According to the Minnesota Pollution Control Agency (MPCA), fluoropolymer coatings are commonly applied to cookware to give it an anti-stick surface. The MPCA notes that Teflon is the most well-known of these non-stick chemicals, the main chemical of which is currently polytetrafluoroethylene (PTFE), a polymer form of PFAS. The MCPA says that when heated to high temperatures, PTFE can start to break down and release toxic fumes, which can be hazardous to both humans and pets (especially birds). Until 2013, Teflon was produced using PFOA, a chemical that has been linked to a number of health conditions and is now present in most people's blood. The MCPA says that although several non-stick cookware brands currently claim to be PFOA-free or Teflon-free, they may have been made with other fluoropolymers with similar properties, and therefore similar concerns as, PFOA. The author's office also points to a December 2020 report by The Ecology Center that found that 79% of tested nonstick cooking pans and 20% of tested nonstick baking pans were coated with the PFAS PTFE. The Ecology Center testing also revealed the presence of BPA in the non-stick coating of some of the cookware and baking pans. The same study found that some labels on cookware make the marketing claim "PFOA free," which refers to one specific PFAS chemical, despite the fact that the cookware may contain PTFE or other PFAS chemicals. The author's office argues that this sends a false message to the buyer that the product does not contain any PFAS, or other risky chemicals.

According to the Author
"AB 1200 would ban the use of PFAS from plant-based food packaging, require cookware manufacturers to attach a disclosure label if certain chemicals are found in their cookware, and require truth in advertising when marketing cookware to be free of certain chemicals. Dangerous chemicals should not be wrapped around our food or leaching into our food from our pots and pans at home. By passing AB 1200, California can assess chemicals that our families are ingesting so that they cannot further damage our health and the environment."

Arguments in Support
"The entire class of PFAS chemicals has been recognized as chemicals of concern by a wide array of scientific experts at both the state and federal level. Federal regulation of food packaging and cookware is woefully inadequate, allowing hazardous chemicals to be used in these products. The result of this failure is that people and the environment are exposed to hazardous chemicals when food packaging and cookware products are manufactured, used, and thrown away (or recycled)… With no federal requirements for any disclosure of chemicals in

cookware, consumers are left in the dark and face a plethora of confusing claims, some of which are misleading or inaccurate, particularly when it comes to non-stick surfaces… This lack of transparency leaves the public to potentially and unwittingly expose themselves to hazardous chemicals. Chemicals of concern in cookware may also contribute to pollution both upstream in the manufacturing process and downstream in the disposal phase… AB 1200 would address these issues in combination."

Arguments in Opposition
None on file.

FISCAL COMMENTS

Unknown. This bill is keyed as having no specified fiscal impact on the state by the Office of Legislative Counsel.

VOTES:

ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 6-1-2
YES: Quirk, Arambula, Bauer-Kahan, Cristina Garcia, Holden, Muratsuchi
NO: Megan Dahle
ABS, ABST OR NV: Smith, Mathis

ASSEMBLY FLOOR: 48-14-17
YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Chau, Chiu, Cooley, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NO: Bigelow, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron
ABS, ABST OR NV: Cervantes, Chen, Choi, Cooper, Daly, Flora, Frazier, Gray, Grayson, Holden, Mathis, Mayes, Quirk-Silva, Reyes, Blanca Rubio, Salas, Valladares

SENATE FLOOR: 36-0-4
YES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk
ABS, ABST OR NV: Dahle, Jones, Limón, Stern

UPDATED

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