

HOUSE BILL 275

M3, J1

2lr1318
CF 2lr1319

By: **Delegates Love, Rogers, Bagnall, Clark, Crosby, Hill, Jackson, Korman, Lehman, and R. Lewis**

Introduced and read first time: January 17, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – PFAS Chemicals – Prohibitions and Requirements**
3 **(George “Walter” Taylor Act)**

4 FOR the purpose of altering certain provisions of law establishing a certain prohibition on
5 certain uses of certain fire–fighting foam by prohibiting, on or after a certain date, a
6 person from using, manufacturing, or knowingly selling, offering for sale, or
7 distributing for sale or use certain fire–fighting foam in the State, subject to certain
8 exceptions; prohibiting a certain person from releasing certain foam into the
9 environment in a certain manner and requiring the person to take certain actions
10 and maintain certain documentation; providing for the process for the Department
11 of the Environment, the Attorney General, the State’s Attorney for a county or
12 Baltimore City, a county attorney, or a City Attorney to obtain certain compliance
13 information; providing that a failure to meet certain requirements does not preclude
14 certain use of a certain foam under certain circumstances; establishing requirements
15 that apply to the sale of certain personal protective equipment that contains PFAS
16 chemicals; prohibiting a person from disposing of a certain foam in a certain manner;
17 prohibiting a certain person, on or after a certain date, from manufacturing, selling,
18 offering for sale, or distributing for sale or use in the State a certain rug or carpet to
19 which PFAS chemicals have been intentionally added for certain purposes;
20 prohibiting a certain manufacturer or distributor, on or after a certain date, from
21 manufacturing, selling, offering for sale, or distributing for sale or use in the State a
22 certain food package or food packaging component to which PFAS chemicals have
23 been intentionally added; requiring the Department of the Environment and the
24 Maryland Department of Health jointly to prepare, in coordination with certain
25 entities, and submit to the General Assembly a certain PFAS Action Plan; and
26 generally relating to PFAS chemicals.

27 BY repealing and reenacting, with amendments,
28 Article – Environment
29 Section 6–1601 and 6–1603

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2013 Replacement Volume and 2021 Supplement)

3 BY repealing
4 Article – Environment
5 Section 6–1602 and 6–1604
6 Annotated Code of Maryland
7 (2013 Replacement Volume and 2021 Supplement)

8 BY adding to
9 Article – Environment
10 Section 6–1602, 6–1604, and 6–1604.1
11 Annotated Code of Maryland
12 (2013 Replacement Volume and 2021 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article – Environment
15 Section 6–1605
16 Annotated Code of Maryland
17 (2013 Replacement Volume and 2021 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Environment
20 Section 9–1901 through 9–1905
21 Annotated Code of Maryland
22 (2014 Replacement Volume and 2021 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
24 That the Laws of Maryland read as follows:

25 **Article – Environment**

26 6–1601.

27 (a) In this subtitle the following words have the meanings indicated.

28 (b) “Class B fire–fighting foam” OR “FOAM” means a foam designed for
29 flammable liquid fire.

30 (C) “INTENTIONALLY ADDED” MEANS THE ACT OF DELIBERATELY USING A
31 CHEMICAL IN THE FORMATION OF A PRODUCT WHERE THE CHEMICAL’S CONTINUED
32 PRESENCE IS DESIRED IN THE PRODUCT TO PROVIDE A SPECIFIC CHARACTERISTIC.

33 (D) “PERSONAL PROTECTIVE EQUIPMENT” MEANS ITEMS DESIGNED,
34 INTENDED, OR MARKETED TO BE WORN BY FIRE–FIGHTING PERSONNEL IN THE

1 PERFORMANCE OF THEIR FIRE AND RESCUE ACTIVITIES, INCLUDING JACKETS,
2 PANTS, SHOES, GLOVES, HELMETS, AND RESPIRATORY EQUIPMENT.

3 [(c)] (E) “PFAS chemicals” means a class of fluorinated organic chemicals that[:

4 (1) Contain] **CONTAIN** at least one fully fluorinated carbon atom, including
5 perfluoroalkyl and polyfluoroalkyl substances[; and

6 (2) Are designed to be fully functional in Class B fire-fighting foam
7 formulations].

8 (F) **“RUG OR CARPET” MEANS A THICK FABRIC USED TO COVER A FLOOR,**
9 **INCLUDING:**

10 (1) **COMMERCIAL OR RESIDENTIAL BROADLOOM CARPET; AND**

11 (2) **A PAD OR AN UNDERLAYMENT USED IN CONJUNCTION WITH A**
12 **CARPET.**

13 [6-1602.

14 (a) This subtitle does not apply to fire-fighting foams used at the
15 Baltimore-Washington International Thurgood Marshall Airport.

16 (b) This subtitle does not restrict:

17 (1) The manufacture, sale, or distribution of Class B fire-fighting foam
18 that contains intentionally added PFAS chemicals; or

19 (2) The discharge or other use of Class B fire-fighting foam that contains
20 intentionally added PFAS chemicals in emergency fire-fighting or fire prevention
21 operations.]

22 **6-1602.**

23 **THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.**

24 6-1603.

25 (A) [On or after October 1, 2021,] **EXCEPT AS PROVIDED IN SUBSECTION (B)**
26 **OF THIS SECTION, ON OR AFTER JANUARY 1, 2023, A PERSON MAY NOT USE,**
27 **MANUFACTURE, OR KNOWINGLY SELL, OFFER FOR SALE, OR DISTRIBUTE FOR SALE**
28 **OR USE** Class B fire-fighting foam that contains intentionally added PFAS chemicals [may
29 not be used for:

1 (1) Testing purposes, including calibration testing, conformance testing,
2 and fixed-system testing unless:

3 (i) The use is required by law or by the agency having jurisdiction
4 over the testing facility; and

5 (ii) The testing facility has implemented appropriate containment,
6 treatment, and disposal measures to prevent releases of foam into the environment; or

7 (2) Training purposes] IN THE STATE.

8 (B) (1) A PERSON THAT IS AUTHORIZED UNDER FEDERAL LAW TO USE
9 CLASS B FIRE-FIGHTING FOAM THAT CONTAINS INTENTIONALLY ADDED PFAS
10 CHEMICALS:

11 (I) MAY NOT RELEASE THE FOAM DIRECTLY INTO THE
12 ENVIRONMENT, INCLUDING THROUGH UNSEALED GROUND, SOAKAGE PITS,
13 WATERWAYS, OR UNCONTROLLED DRAINS; AND

14 (II) SHALL:

15 1. FULLY CONTAIN ALL RELEASES ON SITE;

16 2. IMPLEMENT CONTAINMENT MEASURES, INCLUDING
17 BUNDS AND PONDS, THAT ARE CONTROLLED AND IMPERVIOUS TO PFAS
18 CHEMICALS AND DO NOT ALLOW FIREWATER, WASTEWATER, RUNOFF, AND OTHER
19 WASTES TO BE RELEASED INTO THE ENVIRONMENT, INCLUDING SOILS,
20 GROUNDWATER, WATERWAYS, AND STORMWATER;

21 3. DISPOSE OF ALL FIREWATER, WASTEWATER, RUNOFF,
22 AND OTHER WASTES IN A WAY THAT PREVENTS RELEASES INTO THE ENVIRONMENT;

23 4. WITHIN 5 DAYS AFTER A RELEASE IN VIOLATION OF
24 ITEM (I) OF THIS PARAGRAPH, REPORT THE RELEASE TO THE DEPARTMENT,
25 INCLUDING INFORMATION ON THE IDENTITY OF THE FOAM, THE QUANTITY USED,
26 THE TOTAL PFAS CONCENTRATION, AND THE FORM OF ANY WASTE THAT CONTAINS
27 PFAS CHEMICALS; AND

28 5. MAINTAIN DOCUMENTATION ON ANY MEASURES
29 TAKEN UNDER THIS PARAGRAPH.

30 (2) (I) IN INVESTIGATING COMPLIANCE WITH THIS SUBSECTION,
31 THE DEPARTMENT, THE ATTORNEY GENERAL, A STATE'S ATTORNEY FOR A COUNTY

1 OR BALTIMORE CITY, A COUNTY ATTORNEY, OR A CITY ATTORNEY MAY REQUEST
2 DOCUMENTATION MAINTAINED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

3 (II) A PERSON THAT RECEIVES A REQUEST UNDER
4 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL PROVIDE THE DOCUMENTATION ON
5 REQUEST.

6 (3) A FAILURE TO MEET THE REQUIREMENTS OF PARAGRAPH (1) OR
7 (2) OF THIS SUBSECTION DOES NOT PRECLUDE THE USE OF CLASS B FIRE-FIGHTING
8 FOAM CONTAINING INTENTIONALLY ADDED PFAS CHEMICALS IF THE FAILURE WAS
9 A RESULT OF FACTORS BEYOND THE CONTROL OF THE PERSON.

10 (C) (1) IF A PERSON SELLS PERSONAL PROTECTIVE EQUIPMENT THAT
11 CONTAINS PFAS CHEMICALS IN THE STATE, THE PERSON SHALL PROVIDE WRITTEN
12 NOTICE TO THE PURCHASER AT THE TIME OF THE SALE THAT INCLUDES:

13 (I) A STATEMENT THAT THE PERSONAL PROTECTIVE
14 EQUIPMENT CONTAINS PFAS CHEMICALS; AND

15 (II) THE REASON THAT THE PERSONAL PROTECTIVE
16 EQUIPMENT CONTAINS PFAS CHEMICALS.

17 (2) BOTH THE PERSON SELLING PERSONAL PROTECTIVE EQUIPMENT
18 THAT CONTAINS PFAS CHEMICALS AND THE PURCHASER OF THE PERSONAL
19 PROTECTIVE EQUIPMENT SHALL RETAIN THE NOTICE UNDER PARAGRAPH (1) OF
20 THIS SUBSECTION FOR AT LEAST 3 YEARS AFTER THE DATE OF THE SALE.

21 [6-1604.

22 Nonfluorinated training foam shall be used for purposes of fire-fighting training.]

23 6-1604.

24 A PERSON MAY NOT DISPOSE OF A CLASS B FIRE-FIGHTING FOAM THAT
25 CONTAINS INTENTIONALLY ADDED PFAS CHEMICALS:

26 (1) USING INCINERATION, INCLUDING BY BURNING, COMBUSTION,
27 PYROLYSIS, GASIFICATION, THERMAL OXIDATION, ACID RECOVERY FURNACE OR
28 OXIDIZER, ORE ROASTER, CEMENT KILN, LIGHTWEIGHT AGGREGATE KILN,
29 INDUSTRIAL FURNACE BOILER, AND PROCESS HEATER; OR

30 (2) IN A LANDFILL.

1 **6-1604.1.**

2 (A) THIS SECTION DOES NOT APPLY TO THE SALE OR RESALE OF A USED RUG
3 OR CARPET.

4 (B) ON OR AFTER JANUARY 1, 2023, A PERSON MAY NOT MANUFACTURE,
5 SELL, OFFER FOR SALE, OR DISTRIBUTE FOR SALE OR USE IN THE STATE A RUG OR
6 CARPET TO WHICH PFAS CHEMICALS HAVE BEEN INTENTIONALLY ADDED.

7 (C) (1) A PERSON THAT MANUFACTURES, SELLS, OFFERS FOR SALE, OR
8 DISTRIBUTES FOR SALE OR USE IN THE STATE A RUG OR CARPET SHALL ESTABLISH
9 A CERTIFICATE OF COMPLIANCE TO ATTEST THAT THE RUG OR CARPET IS IN
10 COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

11 (2) WITHIN 30 DAYS AFTER A REQUEST BY THE DEPARTMENT, A
12 PERSON SHALL PROVIDE THE CERTIFICATE OF COMPLIANCE ESTABLISHED UNDER
13 PARAGRAPH (1) OF THIS SUBSECTION TO THE DEPARTMENT.

14 **6-1605.**

15 A person who violates this subtitle is subject to:

16 (1) For a first violation, a civil penalty not exceeding \$500; and

17 (2) For a second or subsequent violation, a civil penalty not exceeding
18 \$1,000.

19 **9-1901.**

20 (a) In this subtitle the following words have the meanings indicated.

21 (b) "Distributor" means any person that:

22 (1) Sells a packaged product to a retailer; or

23 (2) Receives a shipment or consignment of, or in any other manner
24 acquires, packaged products for distribution to a retailer for:

25 (i) Sale to a consumer; or

26 (ii) Promotional purposes.

27 (C) "FOOD PACKAGE" MEANS A PACKAGE THAT IS DESIGNED FOR DIRECT
28 FOOD CONTACT, INCLUDING:

1 **(1) A FOOD OR BEVERAGE PRODUCT THAT IS CONTAINED IN A FOOD**
2 **PACKAGE OR TO WHICH A FOOD PACKAGE IS APPLIED;**

3 **(2) A PACKAGING COMPONENT OF A FOOD PACKAGE; AND**

4 **(3) PLASTIC DISPOSABLE GLOVES USED IN COMMERCIAL OR**
5 **INSTITUTIONAL FOOD SERVICE.**

6 **(D) “INTENTIONALLY ADDED” MEANS THE ACT OF DELIBERATELY USING A**
7 **CHEMICAL IN THE FORMATION OF A PACKAGE OR PACKAGING COMPONENT WHEN**
8 **THE CHEMICAL’S CONTINUED PRESENCE IS DESIRED IN THE FINAL PACKAGE OR**
9 **PACKAGING COMPONENT TO PROVIDE A SPECIFIC CHARACTERISTIC.**

10 **[(c)] (E) (1) “Manufacturer” means any person that manufactures a package**
11 **or packaging component.**

12 (2) “Manufacturer” includes any person that sells a package or packaging
13 component to a distributor.

14 **[(d)] (F) (1) “Package” means a container used to market, protect, or handle**
15 **a product.**

16 (2) “Package” includes:

17 (i) A unit package, an intermediate package, and a shipping
18 container as defined by the American Society for Testing and Materials; and

19 (ii) An unsealed receptacle such as a carrying case, crate, cup, pail,
20 rigid foil or other tray, wrap, wrapping film, bag, and tub.

21 **[(e)] (G) (1) “Packaging component” means any individual assembled part of**
22 **a package.**

23 (2) “Packaging component” includes any interior or exterior blocking,
24 bracing, cushioning, weatherproofing, coating, closure, label, ink, dye, pigment, adhesive,
25 or any other additive.

26 (3) “Packaging component” does not include any package or packaging
27 component that contains cadmium and is intended for reuse more than 5 times.

28 **(H) “PFAS CHEMICALS” MEANS A CLASS OF FLUORINATED ORGANIC**
29 **CHEMICALS THAT CONTAIN AT LEAST ONE FULLY FLUORINATED CARBON ATOM,**
30 **INCLUDING PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES.**

1 (a) Except as provided in §§ 9–1903 and 9–1904 of this subtitle, on or after July
2 1, 1993, a manufacturer or distributor may not sell or offer for sale or for promotional
3 purposes any package or packaging component or any product in a package or packaging
4 component to which any of the following was intentionally added during manufacture or
5 distribution:

6 (1) Lead;

7 (2) Cadmium;

8 (3) Mercury; or

9 (4) Hexavalent chromium.

10 (b) The sum of the concentration levels of lead, cadmium, mercury, and
11 hexavalent chromium incidentally present in a package or packaging component may not
12 exceed:

13 (1) By July 1, 1993, 600 parts per million by weight or 0.06%;

14 (2) By July 1, 1994, 250 parts per million by weight or 0.025%; and

15 (3) By July 1, 1995, 100 parts per million by weight or 0.01%.

16 (c) Tin plated steel that meets the American Society for Testing and Materials
17 Specification A–623 shall be considered a single packaging component.

18 **(D) ON OR AFTER JANUARY 1, 2023, A MANUFACTURER OR DISTRIBUTOR**
19 **MAY NOT MANUFACTURE, SELL, OFFER FOR SALE, OR DISTRIBUTE FOR SALE OR USE**
20 **IN THE STATE A FOOD PACKAGE OR FOOD PACKAGING COMPONENT TO WHICH PFAS**
21 **CHEMICALS WERE INTENTIONALLY ADDED.**

22 9–1903.

23 The provisions of **§ 9–1902(A) THROUGH (C)** OF this subtitle do not apply to:

24 (1) If it contains a code indicating the date of manufacture, a package or
25 packaging component that was manufactured prior to July 1, 1993;

26 (2) Until July 1, 1997, a package and packaging component that would not
27 exceed the concentration levels set forth in § 9–1902 of this subtitle but for the addition of
28 recycled materials;

29 (3) A package or packaging component conditionally exempt under §
30 9–1904 of this subtitle; and

31 (4) Any alcoholic beverage bottled before October 1, 1992.

1 9–1904.

2 (a) A manufacturer or distributor of a package or packaging component may
3 submit to the Department an application for a conditional exemption from the provisions
4 of **§ 9–1902(A) THROUGH (C) OF** this subtitle.

5 (b) On the written application of a manufacturer or distributor, the Department
6 may grant a conditional exemption if the Department finds that:

7 (1) In order to comply with a health or safety requirement of federal law,
8 lead, cadmium, mercury, or hexavalent chromium have been added to the package or
9 packaging component in the manufacturing, forming, printing, or distribution process; or

10 (2) The regulated substance is essential to the protection, safe handling, or
11 function of the package contents.

12 (c) A conditional exemption granted under this section:

13 (1) Expires 2 years after the date the Department grants the exemption;
14 and

15 (2) If the manufacturer or distributor meets the criteria under subsection
16 (b) of this section, may be renewed for additional periods of 2 years.

17 9–1905.

18 (a) To enforce the provisions of this subtitle, the Department may:

19 (1) Notify a manufacturer that there are grounds for suspecting that a
20 package or packaging component produced by the manufacturer may not be in compliance
21 with the provisions of this subtitle; and

22 (2) Request the manufacturer to certify that the package or packaging
23 component is in compliance, **INCLUDING BY REQUESTING THE MANUFACTURER’S**
24 **CERTIFICATE OF COMPLIANCE ESTABLISHED UNDER SUBSECTION (C) OF THIS**
25 **SECTION.**

26 (b) If the manufacturer certifies that the package or packaging component is
27 exempt under § 9–1903 of this subtitle, the manufacturer shall identify the specific basis
28 on which the exemption is claimed.

29 **(C) (1) A MANUFACTURER OR DISTRIBUTOR THAT MANUFACTURES,**
30 **SELLS, OFFERS FOR SALE, OR DISTRIBUTES FOR USE IN THE STATE A FOOD PACKAGE**
31 **OR FOOD PACKAGING COMPONENT SHALL ESTABLISH A CERTIFICATE OF**
32 **COMPLIANCE TO ATTEST THAT THE FOOD PACKAGE OR FOOD PACKAGING**

1 **COMPONENT IS IN COMPLIANCE WITH THE REQUIREMENTS OF § 9–1902(D) OF THIS**
2 **SUBTITLE.**

3 **(2) WITHIN 30 DAYS AFTER A REQUEST BY THE DEPARTMENT, A**
4 **MANUFACTURER SHALL PROVIDE THE CERTIFICATE OF COMPLIANCE ESTABLISHED**
5 **UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE DEPARTMENT.**

6 **[(c)] (D)** If the manufacturer **OR DISTRIBUTOR** fails to certify that the package
7 or packaging component is in compliance or is exempt, the Department may seek an
8 injunction under § 9–1906 of this subtitle to require the manufacturer **OR DISTRIBUTOR**
9 to withdraw the package or packaging component in question from sale or promotional use
10 within the State.

11 SECTION 2. AND BE IT FURTHER ENACTED, That:

12 (a) On or before December 31, 2022, the Department of the Environment shall
13 report to the General Assembly, in accordance with § 2–1257 of the State Government
14 Article, on:

15 (1) the location and results of any testing for PFAS chemicals, as defined
16 in § 6–1601 of the Environment Article, that the Department has conducted on waters of
17 the State;

18 (2) any plan the Department has for further testing for PFAS chemicals in
19 waters of the State; and

20 (3) any plan the Department has for remediation and public education in
21 areas where the water has been found to be contaminated by PFAS chemicals.

22 (b) On or before December 31, 2023, the Department of the Environment and the
23 Maryland Department of Health jointly shall prepare, in coordination with other relevant
24 State agencies, the federal government, local governments, and the public, and submit to
25 the General Assembly, in accordance with § 2–1257 of the State Government Article, a
26 PFAS Action Plan to identify strategies, actions, and funding alternatives to:

27 (1) minimize environmental exposure to PFAS chemicals for Maryland
28 residents, in addition to regulating its use in fire–fighting foam, food packaging and food
29 packaging components, rugs, and carpets;

30 (2) minimize future releases of PFAS chemicals into the environment;

31 (3) identify, assess, and clean up historical releases of PFAS chemicals in
32 Maryland;

33 (4) assess any concerns related to environmental justice, health equity, and
34 PFAS chemical contamination; and

1 (5) educate and communicate to Maryland residents the risks associated
2 with PFAS chemicals.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
4 1, 2022.