

SENATE BILL 158

M4, M3

3lr1590
CF HB 319

By: **Senator Hettleman**

Introduced and read first time: January 18, 2023

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2023

CHAPTER _____

1 AN ACT concerning

2 ~~Pesticide Registration~~ Pesticides – PFAS Testing – Requirements Study

3 FOR the purpose of ~~prohibiting, beginning on a certain date, the Secretary of Agriculture~~
4 ~~from registering a pesticide for use against mosquitoes in the State unless the~~
5 ~~distributor of the pesticide submits to the Department of Agriculture certain test~~
6 ~~results and a certain affidavit; prohibiting, beginning on a certain date, the Secretary~~
7 ~~from registering a pesticide for use in the State unless the distributor of the pesticide~~
8 ~~submits to the Department certain test results and a certain affidavit; and generally~~
9 ~~relating to the registration of pesticides in the State~~ requiring the Department of
10 Agriculture, in consultation with certain State and federal agencies, to study the use
11 of perfluoroalkyl and polyfluoroalkyl substances (PFAS) in pesticides in the State;
12 requiring the Department to report certain findings and recommendations to the
13 Governor and certain committees of the General Assembly on or before a certain
14 date; and generally relating to the use of PFAS in pesticides in the State.

15 ~~BY repealing and reenacting, without amendments,~~
16 ~~Article Agriculture~~
17 ~~Section 5-101(a) and (g)~~
18 ~~Annotated Code of Maryland~~
19 ~~(2016 Replacement Volume and 2022 Supplement)~~

20 ~~BY adding to~~
21 ~~Article Agriculture~~
22 ~~Section 5-105.1~~
23 ~~Annotated Code of Maryland~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~(2016 Replacement Volume and 2022 Supplement)~~

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

~~Article — Agriculture~~

~~5-101.~~

~~(a) In this subtitle the following words have the meanings indicated:~~

~~(g) "Distributor" means a person who imports, manufactures, produces, mixes, or consigns pesticides as part of a commercial enterprise.~~

~~5-105.1.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(2) "PASSED THE PFAS TEST" MEANS PFAS TEST RESULTS INDICATING THAT THE SUM OF THE CONCENTRATIONS OF ANALYTES IN A PESTICIDE TOTAL:~~

~~(i) LESS THAN 100 PARTS PER TRILLION BASED ON CONVENTIONAL TESTING PERFORMED WITH:~~

~~1. LIQUID CHROMATOGRAPHY MASS SPECTROMETRY;~~

~~2. U.S. ENVIRONMENTAL PROTECTION AGENCY METHOD 1633; OR~~

~~3. ANY OTHER MASS SPECTROMETRIC METHOD THAT IS ACCEPTED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY AND SHOWN TO BE A VALID METHOD; OR~~

~~(ii) LESS THAN 10 PARTS PER BILLION IN TOTAL ORGANIC FLUORINE AS DETERMINED BY A VALIDATED TOTAL ORGANIC FLUORINE ANALYSIS.~~

~~(3) "PFAS" MEANS PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES.~~

~~(4) "PFAS TEST" OR "PFAS TESTING" MEANS A TEST:~~

~~(i) TO DETERMINE THE CONCENTRATION OF ANALYTES IN A PESTICIDE; AND~~

1 ~~(H) THAT IS PERFORMED BY A LABORATORY:~~

2 ~~1. IDENTIFIED BY THE DEPARTMENT OF THE~~
3 ~~ENVIRONMENT AS CAPABLE OF TESTING FOR PFAS; OR~~

4 ~~2. USED BY THE U.S. ENVIRONMENTAL PROTECTION~~
5 ~~AGENCY FOR PFAS TESTING.~~

6 ~~(B) BEGINNING JANUARY 1, 2024, THE SECRETARY MAY NOT REGISTER A~~
7 ~~PESTICIDE FOR USE AGAINST MOSQUITOES IN THE STATE UNLESS THE~~
8 ~~DISTRIBUTOR OF THE PESTICIDE SUBMITS TO THE DEPARTMENT WITH EACH~~
9 ~~REGISTRATION APPLICATION:~~

10 ~~(1) PFAS TEST RESULTS INDICATING THAT THE PESTICIDE HAS~~
11 ~~PASSED THE PFAS TEST; AND~~

12 ~~(2) A SIGNED AFFIDAVIT ATTESTING TO THE LEGITIMACY OF THE~~
13 ~~PFAS TEST RESULTS.~~

14 ~~(C) BEGINNING JANUARY 1, 2026, THE SECRETARY MAY NOT REGISTER A~~
15 ~~PESTICIDE FOR USE IN THE STATE UNLESS THE DISTRIBUTOR OF THE PESTICIDE~~
16 ~~SUBMITS TO THE DEPARTMENT WITH EACH REGISTRATION APPLICATION:~~

17 ~~(1) PFAS TEST RESULTS INDICATING THAT THE PESTICIDE HAS~~
18 ~~PASSED THE PFAS TEST; AND~~

19 ~~(2) A SIGNED AFFIDAVIT ATTESTING TO THE LEGITIMACY OF THE~~
20 ~~PFAS TEST RESULTS.~~

21 ~~(D) NOTHING IN THIS SECTION MAY BE CONSTRUED TO REQUIRE THE~~
22 ~~DEPARTMENT TO CONDUCT PFAS TESTING ON PESTICIDES.~~

23 (a) The Department of Agriculture, in consultation with the Department of the
24 Environment, the Maryland Department of Health, and the U.S. Environmental Protection
25 Agency, shall study the use of perfluoroalkyl and polyfluoroalkyl substances (PFAS) in
26 pesticides in the State.

27 (b) The study shall include:

28 (1) an analysis of the health and environmental impacts of PFAS in
29 pesticides in the State;

30 (2) the identification of testing methods capable of testing for PFAS in
31 pesticides;

1 (3) an examination of characteristics that distinguish testing methods for
2 PFAS that are validated for drinking water from testing methods that are validated for
3 pesticides;

4 (4) a status update on federal efforts to certify a method for testing for
5 PFAS in pesticides; and

6 (5) a status update on state and federal efforts to regulate or ban the use
7 of pesticides containing PFAS.

8 (c) On or before November 1, 2023, the Department of Agriculture shall report its
9 findings and recommendations to the Governor and, in accordance with § 2-1257 of the
10 State Government Article, to the Senate Committee on Education, Energy, and the
11 Environment and the House Health and Government Operations Committee.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 ~~October~~ June 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.