

Information on House Bill 22 Environment – PFAS Chemicals – Prohibitions and Requirements February 2, 2021

The American Forest & Paper Association (AF&PA) appreciates the opportunity to share information on Senate Bill 195 on behalf of our members and their employees who are essential and, critical infrastructure workers under Maryland and federal guidance. AF&PA serves to advance a sustainable U.S. pulp, paper, packaging, tissue and wood products manufacturing industry through fact-based public policy and marketplace advocacy.

MD State and Local Taxes	\$1.8 Billion	MD Products: Packaging, sales displays, corrugated boxes
Maryland Payroll	\$374 Million	
Maryland Employees	6000 people	

AF&PA would like to weigh in specifically on the food packaging language and does not have a position on the firefighting foam or floor coverings sections of the bill. We respectfully request the consideration of amendments summarized in our full testimony and detailed in the attachment to this document.

1. Extend the compliance time
2. Amend the definition of “intentionally added” for consistency with other state language and to set a de minimis amount for clarity
3. Amend the definition of food package to not include the food or beverage product but just the food packaging itself

AF&PA members are committed to ensuring the safety of their products, including the safety of chemicals used in their manufacturing processes.

AF&PA believes that chemical and product-related legislation and regulations should be protective of health cost-effective and based on the best available science.

AF&PA encourages states to avoid duplicative regulatory efforts. Chemicals in products should be regulated at the federal, not the state level. It is essential that products moving in interstate commerce be subject to uniform standards. The US Food and Drug Administration can fulfill the need to ensure that food packaging is safe.

AF&PA Comments on HB 22- Amendments Requested

AF&PA appreciates the opportunity to share information on House Bill 22 on behalf of our members and their employees who are essential and, critical infrastructure workers under Maryland and federal guidance. AF&PA serves to advance a sustainable U.S. pulp, paper, packaging, tissue and wood products manufacturing industry through fact-based public policy and marketplace advocacy.

House Bill 22 seeks to ban food packaging that contains any amount or type of intentionally added PFAS. AF&PA members are committed to ensuring the safety of their products, including the safety of chemicals used in their manufacturing processes. AF&PA believes that chemical and product-related legislation and regulations should be protective of health, cost-effective and based on the best available science. We support continued research on the safety of PFAS in our products.

Introduction

AF&PA serves to advance a sustainable U.S. pulp, paper, packaging, tissue and wood products manufacturing industry through fact-based public policy and marketplace advocacy. AF&PA member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry's sustainability initiative — [*Better Practices, Better Planet 2020*](#). The forest products industry accounts for approximately four percent of the total U.S. manufacturing GDP, manufactures nearly \$300 billion in products annually and employs approximately 950,000 men and women. The industry meets a payroll of approximately \$55 billion annually and is among the top 10 manufacturing sector employers in 45 states.

The forest products industry in Maryland employs almost 6,000 individuals with an annual payroll of over \$374 million and produced almost \$1.8 billion in products. The estimated annual state and local taxes paid by the Maryland forest products industry totals \$32 million.

On PFAS

A look at the history of PFAS chemistry is critical to understanding our industry's commitment to ensure that only safe chemistry is used in the production of our products. Some PFAS substances are used to add grease and moisture barrier properties to paper-based packaging, and questions regarding the presence of PFAS in food packaging have been raised from time to time.

AF&PA member companies do not use older, long-chain fluorinated chemistries such as PFOA and PFOS in the production of food contact paper and paperboard. These companies modified paper coating formulas around 2011 and ahead of the 2016 FDA ban on various long-chain PFAS chemicals. Based on our knowledge of our members' practices, intentional use of PFAS is nominal compared with the total production of paper products. It also is important to recognize that, to the limited extent there is intentional use, it is only of short-chain PFAS chemistries, which are used for limited applications, such as grease and moisture resistance. These modern PFAS chemistries have been reviewed and approved by the U.S. Food and Drug Administration (FDA) as safe for use in food packaging through the food contact notification process. These chemistries do not have the toxicity profile of PFAS of concern, such as PFOA and PFOS. As for those remaining limited uses,

there are ongoing, voluntary efforts to find alternatives to PFAS, some of which already have been announced.

AF&PA's Amendments

Our members are in the process of voluntarily phasing out the use of PFAS in food packaging and request the consideration of an amendment to extend the compliance period, as reflected in the attached amendment language, in order to allow companies to continue to participate in the market while working to make those changes.

We believe that states should avoid duplicative regulatory efforts. Chemicals in products and manufacturing by-products should be regulated at the federal, not the state level. It is essential that products moving in interstate commerce be subject to uniform standards. The state of New York passed (language [here](#)) a ban on intentionally-added PFAS in food packaging in 2020 and the second amendment seeks to ameliorate patchwork state compliance concerns by making them more similar in coverage.

The definition of food packaging in this bill includes the packaging for direct food contact, but also includes language that makes a food or beverage product that is contained in a food package which a food package is applied. Our third amendment seeks to remove the product to be contained by food packaging from the definition of food packaging.

Conclusion

We encourage the Committee to avoid measures that might penalize paper. We look forward to continuing our work with the state of Maryland. Please feel free to contact Stewart Holm, Chief Scientist, AF&PA at stewart_holm@afandpa.org or Abigail Sztein, Director, Government Affairs at Abigail_sztein@afandpa.org for further information.

Thank you

Recommended Amendments for MD HB 22 and SB 195

Bill text: <https://mgaleg.maryland.gov/2021RS/bills/hb/hb0022F.pdf>

Extend the compliance time

Page 9 lines 13-16

13 (D) ON OR AFTER DECEMBER 31, 2023, A MANUFACTURER OR DISTRIBUTOR
14 MAY NOT MANUFACTURE, SELL, OFFER FOR SALE, OR DISTRIBUTE FOR SALE OR USE
15 IN THE STATE A FOOD PACKAGE OR ANY PRODUCT IN A FOOD PACKAGE TO WHICH
16 PFAS CHEMICALS WERE INTENTIONALLY ADDED.

Refine the definition of “Intentionally added”

Page 8 Lines 3-6

3 (D) “INTENTIONALLY ADDED” MEANS THE ACT OF DELIBERATELY USING A
4 CHEMICAL in any amount greater than an incidental presence IN THE FORMATION OF A
PACKAGE OR PACKAGING COMPONENT WHEN
5 ITS CONTINUED PRESENCE IS DESIRED IN THE FINAL PACKAGE OR PACKAGING
6 COMPONENT TO PROVIDE A SPECIFIC CHARACTERISTIC.

Amend the language to not include food and beverage in the definition of food packaging

Page 7 Lines 23- Page 8 Line 2

23 (C) “FOOD PACKAGE” MEANS A PACKAGE OR PACKAGING COMPONENT
24 THAT IS DESIGNED FOR DIRECT FOOD CONTACT, INCLUDING:
~~25 (1) A FOOD OR BEVERAGE PRODUCT THAT IS CONTAINED IN A FOOD
26 PACKAGE OR TO WHICH A FOOD PACKAGE IS APPLIED;~~
27 (2) A PACKAGING COMPONENT OF A FOOD PACKAGE; AND
1 (3) PLASTIC DISPOSABLE GLOVES USED IN COMMERCIAL OR
2 INSTITUTIONAL FOOD SERVICE.