

SENATE BILL NO. 1208

November 05, 2020, Introduced by Senators BAYER, HOLLIER, WOJNO, POLEHANKI, IRWIN, BRINKS, ANANICH, BULLOCK, ALEXANDER, CHANG, HERTEL and GEISS and referred to the Committee on Environmental Quality.

A bill to require consumer notification if consumer products or packaging contains certain fluorinated organic chemicals; to authorize the promulgation of rules; to provide for the powers and duties of certain state agencies; and to provide for sanctions and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Consumer product" or "product" means an article or

1 component part thereof that is produced, distributed, or sold for
2 the personal use, consumption, or enjoyment of a consumer,
3 including, but not limited to, food and water.

4 (b) "Department" means the department of licensing and
5 regulatory affairs.

6 (c) "Label" means a display of information that is printed on
7 or affixed to a product or its packaging.

8 (d) "Labeling" means any communication that accompanies a
9 product, such as a package insert.

10 (e) "Packaging" means the immediate container or wrapper of a
11 consumer product.

12 (f) "PFAS" means any organic chemical containing at least 1
13 fully fluorinated carbon atom.

14 (g) "PFAS consumer product" or "PFAS product" means a consumer
15 product that includes PFAS.

16 (h) "PFAS packaging" means packaging that includes PFAS.

17 (i) "Retail seller" means a person that sells or otherwise
18 provides consumer products directly to consumers by any means,
19 including the internet. Retail seller includes those functions of a
20 business involved in the sale or other provision of consumer
21 products directly to consumers, even if the business or facility is
22 primarily devoted to nonretail activities.

23 (j) "Sign" means a physical presentation of written, printed,
24 graphic, or electronically provided communication, including a
25 shelf sign, but not including a label or labeling.

26 Sec. 3. (1) The manufacturer, producer, packager, importer,
27 supplier, or distributor of a PFAS consumer product or PFAS
28 packaging shall do 1 of the following if that person meets the
29 requirement of subsection (2)(e)(ii):

1 (a) Beginning January 1, 2023, provide on the product label or
2 labeling a warning that meets the requirements of section 5.

3 (b) By January 1, 2023, and annually thereafter provide a
4 written notice directly to the authorized agent for a retail seller
5 that sells the product in this state and obtain written
6 confirmation of receipt of the notice. The notice shall meet all of
7 the following requirements:

8 (i) State that the product or the product's packaging may
9 result in exposure to PFAS, an organic chemical containing at least
10 1 fully fluorinated carbon atom.

11 (ii) Include the exact name or description of the product or
12 specific identifying information for the product such as a
13 universal product code.

14 (iii) Be accompanied by labels or labeling that meet the
15 requirements of section 5 and, for a product to be sold by the
16 retailer on the internet, warning language that meets the
17 requirements of section 5.

18 (2) Beginning January 1, 2023, a retail seller of a PFAS
19 consumer product or consumer product with PFAS packaging shall
20 provide on the product label or labeling a warning that meets the
21 requirements of section 5 if 1 or more of the following apply:

22 (a) The retail seller is selling the product under a brand or
23 trademark that is owned or licensed by the retail seller or an
24 affiliated entity.

25 (b) The retail seller has knowingly introduced PFAS into the
26 product or packaging, or knowingly caused PFAS to be created in the
27 product or packaging.

28 (c) The retail seller has removed, covered, obscured, or
29 altered a warning provided under subsection (1)(a).

1 (d) The retail seller has received a notice pursuant to
2 subsection (1)(b). If the notice includes a sign, the retail seller
3 shall conspicuously post and display the sign in association with
4 the consumer product under conditions, including lighting
5 conditions, that make it likely to be seen, read, and understood by
6 an ordinary person.

7 (e) The retail seller has actual specific knowledge from a
8 reliable source that the consumer product is a PFAS consumer
9 product or has PFAS packaging and there is no manufacturer,
10 producer, packager, importer, supplier, or distributor of the
11 product that meets both of the following requirements:

12 (i) Has designated an agent for service of process in this
13 state or has a place of business in this state.

14 (ii) Is not any of the following:

15 (A) A person employing fewer than 10 employees.

16 (B) A local unit of government, this state, the federal
17 government, or a department, agency, board, commission, or
18 authority of any of these.

19 (C) The owner or operator of a public water supply, as defined
20 in section 2 of the safe drinking water act, 1976 PA 399, MCL
21 325.1002.

22 Sec. 5. (1) A warning required under section 3 shall do both
23 of the following:

24 (a) State that the product or packaging, as applicable,
25 includes PFAS and that exposure to PFAS may have adverse health
26 effects.

27 (b) Meet any other relevant requirements imposed by the
28 department.

29 Sec. 7. Pursuant to the administrative procedures act of 1969,

1 1969 PA 306, MCL 24.201 to 24.328, the department may promulgate
2 rules to implement this act.

3 Sec. 8. (1) A person who violates this act may be ordered to
4 pay a civil fine of not more than the following for each day of
5 violation:

6 (a) For a violation committed within 1 year after the
7 effective date of this act, \$1,000.00.

8 (b) For a violation committed more than 1 year but not more
9 than 2 years after the effective date of this act, \$5,000.00.

10 (c) For a violation committed more than 2 years after the
11 effective date of this act, \$10,000.00.

12 (2) A violation of this act may be prosecuted by the
13 prosecutor of the county in which the violation occurred or by the
14 attorney general. A fine collected under this section by the
15 attorney general shall be deposited in the state general fund.

16 (3) The attorney general or the prosecutor of the county in
17 which a violation occurs may bring an action for injunctive relief
18 for a violation of this act.