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# A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that perfluoroalkyl and  
2 polyfluoroalkyl substances (PFAS) are chemicals that have been  
3 used in many consumer products since the 1940s. PFAS accumulate  
4 in the human body, and exposure can lead to adverse health  
5 outcomes in humans. The most studied PFAS chemicals are  
6 perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid  
7 (PFOS). Studies indicate that PFOA and PFOS can cause  
8 reproductive and developmental, liver and kidney, and  
9 immunological effects in laboratory animals, and both PFOA and  
10 PFOS have caused tumors in animals. The most consistent  
11 findings are increased cholesterol levels among exposed  
12 populations, with other findings related to low infant birth  
13 rates, effects on the immune system, cancer for PFOA, and  
14 thyroid disruption for PFOS.

15           One common pathway for human exposure to PFAS is through  
16 their use in food packaging. Individuals can be exposed to PFAS  
17 by eating food that was packaged in material that contains PFAS



1 or using consumer products that contain PFAS. Due to the  
2 pervasiveness of these chemicals, PFAS have also been detected  
3 in drinking water. Another pathway for exposure to PFAS is  
4 through drinking water contaminated by firefighting foam  
5 containing PFAS.

6 The legislature further finds that once PFAS enter the  
7 environment, they persist for a very long time, as no natural  
8 processes can break down these substances. These forever  
9 chemicals can continue to cause exposures long after they are  
10 phased out of consumer and other products. Furthermore, there  
11 is little toxicity or safety data for most of the commonly used  
12 PFAS chemicals, including those that are currently used in food  
13 packaging.

14 The legislature also finds that a 2021 study conducted by  
15 the Washington state department of ecology sought to identify  
16 safer options to replace PFAS in food packaging. The study set  
17 forth certain considerations when looking for alternatives,  
18 including if the products were safer than PFAS, worked as well  
19 as or better than PFAS, were readily available for purchase to  
20 general consumers, and were cost comparable to the PFAS option.  
21 The department of ecology determined that less hazardous



1 alternatives are available for the following four types of food  
2 packaging: wraps and liners, plates, food boats, and pizza  
3 boxes.

4 The legislature additionally finds that there are two major  
5 classes of firefighting foam: class A firefighting foam, which  
6 is used to extinguish certain materials such as wood, paper, and  
7 brush; and class B firefighting foam, also called aqueous film  
8 forming foam, which is used to extinguish materials such as  
9 gasoline, oil, and jet fuel. Class B firefighting foams, some  
10 of which contain PFAS, are widely used at firefighting training  
11 facilities, airports, and military bases.

12 Although class B firefighting foam is highly effective for  
13 fighting flammable liquid fires, numerous environmental, health,  
14 and safety concerns have prompted federal and state agencies and  
15 legislatures to consider regulating firefighting foams that  
16 contain PFAS. Congress has already directed the military to  
17 phase out its use of such foams by 2024. Furthermore, nine  
18 states, including California, Illinois, New York, and  
19 Washington, have enacted laws that prohibit the sale or use of  
20 PFAS firefighting foams. The market for safer alternatives to  
21 PFAS firefighting foam is also growing, including for airports.



1 Accordingly, the purpose of this Act is to:

2 (1) Prohibit the manufacture, sale, or distribution for  
3 sale or use of wraps and liners, plates, food boats,  
4 and pizza boxes that contain PFAS; and

5 (2) Prohibit the manufacture, sale, distribution, and use  
6 of class B firefighting foams that contain PFAS, with  
7 certain exceptions.

8 SECTION 2. Chapter 321, Hawaii Revised Statutes, is  
9 amended by adding a new part to be appropriately designated and  
10 to read as follows:

11 **"PART . PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES**  
12 **PROHIBITED**

13 **§321- Definitions.** For the purposes of this part:

14 "Class B firefighting foam" means foams designed to  
15 suppress flammable liquid fires.

16 "Food packaging" means a package or packaging component  
17 that is applied to or in direct contact with any food or  
18 beverage and is comprised, in substantial part, of paper,  
19 paperboard, or other materials originally derived from plant  
20 fibers.



1 "Intentionally introduced" means deliberately utilized PFAS  
2 in the formulation of a package or packaging component where the  
3 continued presence of the PFAS is desired in the final package  
4 or packaging component to provide a specific characteristic,  
5 appearance, or quality.

6 "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS"  
7 means all members of the class of fluorinated organic chemicals  
8 containing at least one fully fluorinated carbon atom.

9 **§321- Food packaging; prohibited items.** (a) Beginning  
10 December 31, 2024, it shall be unlawful to manufacture, sell,  
11 offer for sale, distribute for sale, or distribute for use in  
12 the State any food packaging specified in subsection (b) to  
13 which PFAS chemicals have been intentionally introduced in any  
14 amount.

15 (b) The prohibition under this section shall apply to  
16 wraps and liners, plates, food boats, and pizza boxes.

17 **§321- Class B firefighting foam; prohibited items.** (a)  
18 Beginning July 1, 2024, it shall be unlawful for any person or  
19 state or county department or agency to discharge or otherwise  
20 use for training or testing purposes class B firefighting foam  
21 that contains intentionally introduced PFAS chemicals, unless



1 the use is necessary for effective suppression of a petroleum  
2 fire.

3 (b) Beginning July 1, 2024, it shall be unlawful to  
4 manufacture, sell, offer for sale, distribute for sale, or  
5 distribute for training or testing purposes in the State any  
6 class B firefighting foam that contains intentionally introduced  
7 PFAS chemicals.

8 (c) This section shall not apply to the manufacture, sale,  
9 or distribution of class B firefighting foam where the inclusion  
10 of PFAS chemicals is required by federal law or regulations;  
11 provided that if applicable federal law or regulations are  
12 amended after the effective date of this Act to allow the use of  
13 alternative firefighting agents that do not contain PFAS  
14 chemicals, the department may adopt rules that restrict PFAS  
15 chemicals for the manufacture, sale, and distribution of  
16 firefighting foam for uses that are addressed by the federal law  
17 or regulation.

18 **§321- Manufacturers of class B firefighting foam;**  
19 **prohibitions; certificate of compliance; penalty.** (a) A  
20 manufacturer of class B firefighting foam prohibited by this  
21 part shall notify, in writing and no later than January 1, 2023,



1 persons that sell the manufacturer's products in the State about  
2 the requirements of this part.

3 (b) A manufacturer that produces, sells, or distributes a  
4 class B firefighting foam prohibited by this part shall recall  
5 the product and reimburse the retailer or any other purchaser  
6 for the product.

7 (c) The department may request a certificate of compliance  
8 from a manufacturer of class B firefighting foam that attests  
9 that a manufacturer's product or products meets the requirements  
10 of this part.

11 (d) Any manufacturer of class B firefighting foam  
12 violating this part or any rule adopted pursuant to this part  
13 shall be subject to an administrative fine not to exceed:

14 (1) \$5,000 for a first violation; and

15 (2) \$10,000 for any subsequent violation.

16 **§321- Rules.** The department may adopt rules pursuant  
17 to chapter 91 necessary to implement this part."

18 SECTION 3. This Act shall take effect on July 1, 2022.



H.B. NO. 1644  
H.D. 1  
S.D. 1  
C.D. 1

**Report Title:**

Food Packaging; Firefighting Foam; Perfluoroalkyl and Polyfluoroalkyl Substances; Ban; Fines; Department of Health

**Description:**

Bans the manufacture, sale, or distribution for sale or use of wraps and liners, plates, food boats, pizza boxes, and firefighting foams that contain perfluoroalkyl and polyfluoroalkyl substances, in certain circumstances. (CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

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