
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 Washington
19 have enacted laws that prohibit the sale or use of PFAS
20 firefighting foams. The market for safer alternatives to PFAS
21 firefighting foam is also growing, including for airports.



1 Accordingly, the purpose of this Act is to:

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

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

7 SECTION 2. Chapter 328, Hawaii Revised Statutes, is
8 amended by adding a new part to be appropriately designated and
9 to read as follows:

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

12 **§328- . Definitions.** For the purposes of this part:

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

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

20 "Intentionally introduced" means deliberately utilizing
21 PFAS in the formulation of a package or packaging component



1 where the continued presence of the PFAS is desired in the final
2 package or packaging component to provide a specific
3 characteristic, appearance, or quality.

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

7 **§328- . Food packaging; prohibited items. (a)**
8 Beginning July 1, 2023, it shall be unlawful to manufacture,
9 sell, offer for sale, distribute for sale, or distribute for use
10 in the State any food packaging specified in subsection (b) to
11 which PFAS chemicals have been intentionally introduced in any
12 amount.

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

15 **§328- . Class B firefighting foam; prohibited items.**
16 (a) Beginning July 1, 2023, it shall be unlawful for any person
17 or state or county department or agency to discharge or
18 otherwise use for training purposes class B firefighting foam
19 that contains intentionally introduced PFAS chemicals.

20 (b) Beginning July 1, 2023, it shall be unlawful to
21 manufacture, sell, offer for sale, distribute for sale, or



1 distribute for use in the State any class B firefighting foam
2 that contains intentionally introduced PFAS chemicals.

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

13 **§328- . Manufacturers of class B firefighting foam;**
14 **prohibitions; certificate of compliance; penalty.** (a) A
15 manufacturer of class B firefighting foam prohibited by this
16 part shall notify, in writing, persons that sell the
17 manufacturer's products in the State about the requirements of
18 this part no later than January 1, 2023.

19 (b) A manufacturer that produces, sells, or distributes a
20 class B firefighting foam prohibited by this part shall recall



1 the product and reimburse the retailer or any other purchaser
2 for the product.

3 (c) The department may request a certificate of compliance
4 from a manufacturer of class B firefighting foam that attests
5 that a manufacturer's product or products meets the requirements
6 of this part.

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

10 (1) \$5,000 for a first violation; and

11 (2) \$10,000 for any subsequent violation.

12 **§328- . Rules.** The department may adopt rules pursuant
13 to chapter 91 necessary to implement this chapter."

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

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INTRODUCED BY: Mistle E. Lowen

JAN 20 2022



H.B. NO. 1644

Report Title:

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

Description:

Beginning July 1, 2023, bans the manufacture, sale, distribution, and use of wraps and liners, plates, food boats, pizza boxes, and firefighting foams that contain perfluoroalkyl and polyfluoroalkyl substances (PFAS).

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