

HOUSE BILL NO. 5657

April 24, 2024, Introduced by Reps. Tsernoglou, Byrnes, Rheingans, Arbit, Hope, Hood, Wilson, Price, Conlin, Mentzer, MacDonell, Andrews, Brabec, Wegela, Skaggs, O'Neal, Morgan, Young, Haadsma, Steckloff and Aiyash and referred to the Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

A bill to require notices and warnings if certain products contain certain chemicals; to provide for the powers and duties of certain state governmental officers and entities; and to provide for civil sanctions and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "hazardous products act".

2 Sec. 3. As used in this act:

3 (a) "Currently unavoidable" means a use of PFAS that the
4 department has determined by rule to be temporarily essential, if

1 all of the following requirements are met:

2 (i) There are no safer alternatives that are reasonably
3 available to the PFAS used in the product.

4 (ii) The function of PFAS in the product is necessary for the
5 product to work.

6 (iii) The PFAS is being used in a product that is critical for
7 health, safety, or the function of society.

8 (b) "Department" means the department of environment, Great
9 Lakes, and energy.

10 (c) "Intentionally added PFAS" means PFAS that a manufacturer
11 intentionally added to and that has a functional or technical
12 effect on a product, or a component thereof, or the manufacturing
13 process. Intentionally added PFAS includes any PFAS that is a
14 component or a breakdown product of an intentionally added chemical
15 that has a functional or technical effect on the product, or a
16 component thereof, or the manufacturing process.

17 (d) "Manufacturer" means a person that manufactures a product
18 or whose brand name is affixed to the product that is sold or
19 offered or distributed for sale in this state.

20 (e) "PFAS" means a perfluoroalkyl or polyfluoroalkyl substance
21 that includes any member of the class of fluorinated organic
22 chemicals containing at least 1 fully fluorinated carbon atom.

23 (f) "Product" means an item, or a component thereof, that is
24 produced, distributed, sold, manufactured, or packaged for
25 wholesale, personal, residential, commercial, retail, or industrial
26 use.

27 Sec. 5. (1) Beginning January 1, 2027, a manufacturer of a
28 product sold in this state that contains intentionally added PFAS
29 shall submit to the department and any person that will sell, at

1 wholesale or retail, or offer or distribute for sale, the product a
2 notice that contains all of the following information:

3 (a) A description of the product.

4 (b) Information regarding why PFAS was intentionally added to
5 the product.

6 (c) The amount of PFAS used in the product.

7 (d) The name, address, and telephone number of the
8 manufacturer and the manufacturer's authorized agent or
9 representative.

10 (e) Any additional relevant information required by the
11 department.

12 (2) The department may do 1 or more of the following regarding
13 a notice under subsection (1):

14 (a) Authorize the omission of certain information if the
15 department determines that substantially equivalent information is
16 already publicly available.

17 (b) Require a manufacturer to update the notice.

18 (c) Reject the notice in writing for insufficient information.
19 The rejection must indicate the information necessary to make the
20 notice sufficient.

21 (3) The department shall review a notice submitted under
22 subsection (1) and determine whether the use of PFAS is currently
23 unavoidable. If the department determines that the use is currently
24 unavoidable, it shall issue to the manufacturer a written waiver
25 for the purposes of section 7.

26 (4) A manufacturer of a product for which federal law governs
27 the presence of PFAS in the product is exempt from subsection (1).

28 Sec. 7. (1) Beginning January 1, 2027, a person shall not
29 sell, or offer or distribute for sale, any of the following

1 products, if the product contains intentionally added PFAS, unless
2 the department has issued a waiver for the product under section
3 5(3) and the person, if not the manufacturer, has obtained a copy
4 of the waiver from the manufacturer:

5 (a) Apparel, which includes clothing items intended for
6 regular wear or formal occasions, including, but not limited to,
7 undergarments, shirts, pants, skirts, dresses, overalls, bodysuits,
8 costumes, vests, dancewear, suits, saris, scarves, tops, leggings,
9 school uniforms, leisurewear, athletic wear, sports uniforms,
10 everyday swimwear, formal wear, onesies, bibs, diapers, footwear,
11 outdoor apparel, and everyday uniforms for workwear. Apparel does
12 not include personal protective equipment or items for use by the
13 United States military.

14 (b) Carpets, rugs, or another similar fabric that is marketed
15 or intended for use as a floor covering.

16 (c) Cleaning products, which are used primarily for
17 janitorial, household, or institutional cleaning purposes, such as
18 an air care, automotive, general cleaning, or a polish or floor
19 maintenance product.

20 (d) Cookware, which are durable items that are used in homes
21 and food establishments to prepare, dispense, or store food, and
22 includes, but is not limited to, pots, pans, skillets, grills,
23 baking sheets, baking molds, trays, bowls, and cooking utensils.

24 (e) Cosmetics, which include any item, or component part
25 thereof, that is intended to be rubbed, poured, sprinkled, sprayed
26 on, introduced into, or otherwise applied to the human body or any
27 part of the human body for cleansing, beautifying, promoting
28 attractiveness, or altering the appearance. Cosmetics do not
29 include soap.

1 (f) Dental floss, which is a waxed or unwaxed thread used to
2 remove food particles and plaque from between the teeth and under
3 the gums.

4 (g) Fabric treatments or other similar substances that are
5 applied to fabric to give the fabric 1 or more characteristics,
6 such as stain or water resistance.

7 (h) Juvenile products, which include any product designed for
8 use by infants and children under 12 years of age, such as a baby
9 or toddler foam pillow, bassinet, bedside sleeper, booster seat,
10 changing pad, child restraint system for use in motor vehicles and
11 aircraft, co-sleeper, crib mattress, floor playmat, high chair,
12 high chair pad, infant bouncer, infant carrier, infant seat, infant
13 sleep positioner, infant swing, infant travel bed, infant walker,
14 nap cot, nursing pad, nursing pillow, playmat, playpen, play yard,
15 polyurethane foam mat, pad, or pillow, portable foam nap mat,
16 portable infant sleeper, portable hook-on chair, soft-sided
17 portable crib, stroller, and toddler mattress.

18 (i) Menstruation products, which include any disposable or
19 reusable product used to collect menstruation and vaginal
20 discharge, such as tampons, pads, sponges, menstruation underwear,
21 discs, and menstrual cups.

22 (j) Textile furnishings, which include any type of textile
23 customarily used in households and businesses, such as draperies,
24 floor coverings, furnishings, bedding, towels, and tablecloths.

25 (k) Ski wax or other similar lubricant that is applied to the
26 bottom of snow runners.

27 (l) Upholstered furniture, which includes any article of
28 furniture that is designed to be used for sitting, resting, or
29 reclining and that is wholly or partly stuffed or filled with any

1 filling material.

2 (2) Beginning January 1, 2032, a person shall not sell, or
3 offer or distribute for sale, any product that contains
4 intentionally added PFAS, unless the department has issued a waiver
5 for the product under section 5(3) and the person, if not the
6 manufacturer, has obtained a copy of the waiver from the
7 manufacturer.

8 (3) This section does not apply to the sale or resale of used
9 products.

10 Sec. 9. (1) Except as otherwise provided in subsection (3),
11 beginning January 1, 2027, a person, local government, or state
12 agency shall not discharge or otherwise use class A or class B
13 firefighting foam that contains intentionally added PFAS.

14 (2) Except as otherwise provided in subsection (3), beginning
15 January 1, 2027, a manufacturer of class A or class B firefighting
16 foam shall not manufacture, sell, offer for sale, or distribute for
17 sale or use in this state class A or class B firefighting foam that
18 contains intentionally added PFAS.

19 (3) The restrictions under subsections (1) and (2) do not
20 apply to the manufacture, sale, distribution, or use of class B
21 firefighting foam that contains intentionally added PFAS that is
22 subject to regulation under 14 CFR 139.317 or another federal law.
23 If a federal law that requires class B firefighting foam to contain
24 intentionally added PFAS is revoked on or after January 1, 2024,
25 the class B firefighting foam subject to the federal law is no
26 longer exempt under this subsection beginning 1 year after the
27 effective date of revocation. If a federal law that requires class
28 B firefighting foam to contain intentionally added PFAS is amended
29 on or after January 1, 2024 to allow the use of alternative

1 firefighting agents, the restrictions under subsections (1) and (2)
2 apply.

3 (4) Beginning January 1, 2027, a person that sells firefighter
4 personal protective equipment in this state shall provide a written
5 notice to the purchaser at the time of sale if the firefighter
6 personal protective equipment contains intentionally added PFAS.
7 The written notice must include a statement that the firefighter
8 personal protective equipment contains PFAS and the reason that
9 PFAS were added.

10 (5) As used in this section:

11 (a) "Class A firefighting foam" means foam designed for class
12 A materials fires, such as wood, paper, brush, and vegetation, and
13 is widely used by many fire departments for structural firefighting
14 using compressed air foam systems.

15 (b) "Class B firefighting foam" means foam designed for class
16 B materials fires, such as gasoline, oil, and jet fuel, and is
17 widely used to extinguish hydrocarbon flammable liquid fires.

18 (c) "Firefighting personal protective equipment" means any
19 clothing designed, intended, or marketed to be worn by firefighting
20 personnel in the performance of fire and rescue activities and
21 includes jackets, pants, shoes, gloves, helmets, and respiratory
22 equipment.

23 Sec. 11. A person that violates this act is subject to
24 penalties as follows:

25 (a) For a first offense, guilty of a misdemeanor punishable by
26 imprisonment for not more than 93 days, a fine of not more than
27 \$1,000.00, or both.

28 (b) For a second offense, guilty of a misdemeanor punishable
29 by imprisonment for not more than 93 days, a fine of not more than

1 \$1,500.00, or both.

2 (c) For a third or subsequent offense, guilty of a felony. The
3 court shall sentence the person to imprisonment for not more than 2
4 years and impose a fine of not more than \$2,000.00.

5 Sec. 13. The department shall promulgate rules to implement
6 this act under the administrative procedures act of 1969, 1969 PA
7 306, MCL 24.201 to 24.328.