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## Environment Committee

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### HB 2658

**Brief Description:** Concerning the use of perfluorinated chemicals in food packaging.

**Sponsors:** Representatives McBride, Kagi, Peterson, Fitzgibbon, Doglio, Gregerson, Appleton, Jinkins, Ortiz-Self, Macri, Ryu, Pollet, Kloba, Goodman, Frame and Stanford.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Conditionally restricts the inclusion of Perfluorinated and Polyfluorinated chemicals in food packaging beginning in 2021, pending the outcome of an alternatives assessment to be completed by the Department of Ecology by January 1, 2020.</li></ul>
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**Hearing Date:** 1/23/18

**Staff:** Jacob Lipson (786-7196).

**Background:**

Prohibited Substances in Packaging.

Since 1991, state law has restricted the intentional use of lead, cadmium, mercury, and hexavalent chromium in packaging or packaging components. Packaging includes containers used to market, protect, or handle a product, including shipping containers and unsealed receptacles like cups, crates, wrappers, bags, and tubs.

Manufacturers must develop certificates of compliance for packaging or packaging components certifying that the packaging does not include restricted substances in prohibited amounts, and noting the basis for any claimed exemption from those restrictions. Certificates of compliance must be kept on file by a manufacturer while packaging or packaging components are in use, and for three years after the last date of sale or distribution. When a manufacturer reformulates or develops a new package or packaging component, the manufacturer must update the certificate of compliance.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Department of Ecology (ECY) may prohibit the sale of packages by a manufacturer if the manufacturer does not provide a certificate of compliance within 60 days of an ECY request.

#### Perfluorinated and Polyfluorinated Chemicals.

According to the ECY, perfluorinated and polyfluorinated chemicals (PFAS) are characterized by their resistance to oil, stains, grease, and water, as well as their durability, heat resistance, and anti-corrosive properties. The ECY has also identified PFAS as persistent, bioaccumulative, and toxic (PBT) substances. In 2016 under the ECY's PBT substances rule, the ECY began developing a chemical action plan (CAP) in conjunction with the Department of Health for PFAS to evaluate the chemical's uses, releases, impacts, and management. As of January 14, 2018, the ECY has published and solicited public feedback on a draft CAP, but has not yet published a final CAP.

#### Alternatives Assessments.

The Interstate Chemicals Clearinghouse (ICC), which is an association focused on safe chemical use and of which Washington is a member, published an alternatives assessment guide in January, 2014 and an updated guide in January, 2017. This alternatives assessment guide provides evaluative tools and processes for manufacturers, governments, and others to compare performance, hazard, cost, availability, exposure, and other relevant characteristics of chemicals used in processes or products. In January of 2015, the ECY published a state-specific alternatives assessment guide for small and medium-sized businesses based on the original ICC guide.

#### **Summary of Bill:**

Contingent upon the outcome an alternatives assessment, manufacturers that apply a package to a product are restricted from selling, offering for sale, or distributing food packaging to which perfluoroalkyl and polyfluoroalkyl chemicals (PFAS) have been intentionally added. Food packaging is defined as a package or package component for marketing, protecting, or handling a product used for food contact, or used to store food and foodstuffs.

The restrictions on PFAS in food packaging are effective no earlier than January 1, 2021, and take effect after the Department of Ecology (ECY) identifies, during an alternatives assessment, a safer alternative that has improved hazard and exposure considerations and that can be practicably and economically substituted for the original chemical. The alternatives assessment must:

- evaluate less toxic chemicals and nonchemical alternatives;
- follow the ICC alternatives assessment guidelines;
- evaluate chemical hazard, performance, cost, and availability, at minimum; and
- result in the publication of findings in the Washington State Register and a report to the Legislature by January 1, 2020.

If the January 1, 2020 findings do not identify a safer alternative, then the ECY must continue to review the availability of safer alternatives to PFAS in food packaging annually by January 1 until a safer alternative is identified, after which the restrictions will take effect one year later.

Manufacturers must develop a compliance certificate within one year of the prohibition on PFAS in food packaging becoming effective, and must provide that certificate to the ECY within 60 days of a request.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.