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HOUSE BILL 2658

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State of Washington

65th Legislature

2018 Regular Session

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

Read first time 01/11/18. Referred to Committee on Environment.

1 AN ACT Relating to the use of perfluorinated chemicals in food  
2 packaging; amending RCW 70.95G.010 and 70.95G.040; and adding a new  
3 section to chapter 70.95G RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.95G.010 and 1991 c 319 s 107 are each amended to  
6 read as follows:

7 ((Unless the context clearly requires otherwise,)) The  
8 definitions in this section apply throughout this chapter unless the  
9 context clearly requires otherwise.

10 (1) "Package" means a container providing a means of marketing,  
11 protecting, or handling a product and shall include a unit package,  
12 an intermediate package, and a shipping container. "Package" also  
13 means and includes unsealed receptacles such as carrying cases,  
14 crates, cups, pails, rigid foil and other trays, wrappers and  
15 wrapping films, bags, and tubs.

16 (2) "Manufacturer" means a person, firm, association,  
17 partnership, government entity, organization, joint venture, or  
18 corporation that applies a package to a product for distribution or  
19 sale.

20 (3) "Packaging component" means an individual assembled part of a  
21 package such as, but not limited to, any interior or exterior

1 blocking, bracing, cushioning, weatherproofing, exterior strapping,  
2 coatings, closures, inks, and labels.

3 (4) "Food package" means a package or packaging component that is  
4 intended for the marketing, protection, or handling of a product  
5 intended for food contact or used to store food and foodstuffs for  
6 sale.

7 (5) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS  
8 chemicals" means, for the purposes of food packaging, a class of  
9 fluorinated organic chemicals containing at least one fully  
10 fluorinated carbon atom.

11 (6) "Safer alternative" means an alternative substance or  
12 chemical, demonstrated by an alternatives assessment, that meets  
13 improved hazard and exposure considerations and can be practicably  
14 and economically substituted for the original chemical.

15 NEW SECTION. Sec. 2. A new section is added to chapter 70.95G  
16 RCW to read as follows:

17 (1) Beginning January 1, 2021, no person may manufacture,  
18 knowingly sell, offer for sale, distribute for sale, or distribute  
19 for use in this state food packaging to which PFAS chemicals have  
20 been intentionally added in any amount. This prohibition may not take  
21 effect until the department of ecology completes the following: (a)  
22 Identifies that a safer alternative is available; and (b) publishes  
23 findings, as required under subsection (3) of this section.

24 (2) To determine whether safer alternatives to PFAS chemicals  
25 exist, the department of ecology must conduct an alternatives  
26 assessment that:

27 (a) Evaluates less toxic chemicals and nonchemical alternatives  
28 to replace the use of a chemical;

29 (b) Follows the guidelines for alternatives assessments issued by  
30 the interstate chemicals clearinghouse; and

31 (c) Includes, at a minimum, an evaluation of chemical hazards,  
32 exposure, performance, cost, and availability.

33 (3) By January 1, 2020, the department of ecology must publish  
34 its findings in the Washington State Register on whether a safer  
35 alternative to PFAS chemicals in food packaging is available and  
36 submit a report with the findings to the appropriate committees of  
37 the legislature.

38 (4) The prohibition on the use of PFAS chemicals in food  
39 packaging:

1 (a) Becomes effective January 1, 2021, if the report required  
2 under subsection (3) of this section finds that a safer alternative  
3 is available;

4 (b) Does not take effect January 1, 2021, if the report required  
5 under subsection (3) of this section does not find that a safer  
6 alternative is available.

7 (5) If the department of ecology does not find that a safer  
8 alternative is available, beginning January 1, 2021, and each year  
9 following, the department of ecology must review and report on  
10 alternatives as described in subsection (2) of this section. The  
11 prohibition in this section takes effect one year after a report  
12 submitted to the legislature required under subsection (3) of this  
13 section finds that a safer alternative is available.

14 **Sec. 3.** RCW 70.95G.040 and 1991 c 319 s 110 are each amended to  
15 read as follows:

16 (~~By July 1, 1993,~~) A certificate of compliance stating that a  
17 package or packaging component is in compliance with the requirements  
18 of this chapter shall be developed by its manufacturer. For food  
19 packaging, a manufacturer shall develop a compliance certificate  
20 within one year of the prohibition becoming effective as required  
21 under section 2 of this act. If compliance is achieved under the  
22 exemption or exemptions provided in RCW 70.95G.030 (~~((3) or (4))~~),  
23 the certificate shall state the specific basis upon which the  
24 exemption is claimed. The certificate of compliance shall be signed  
25 by an authorized official of the manufacturing company. The  
26 certificate of compliance shall be kept on file by the manufacturer  
27 for as long as the package or packaging component is in use, and for  
28 three years from the date of the last sale or distribution by the  
29 manufacturer. Certificates of compliance, or copies thereof, shall be  
30 furnished to the department of ecology upon request within sixty  
31 days. If manufacturers are required under any other state statute to  
32 provide a certificate of compliance, one certificate may be developed  
33 containing all required information.

34 If the manufacturer or supplier of the package or packaging  
35 component reformulates or creates a new package or packaging  
36 component, the manufacturer shall develop an amended or new

1 certificate of compliance for the reformulated or new package or  
2 packaging component.

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