

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2658

Chapter 138, Laws of 2018

65th Legislature
2018 Regular Session

FOOD PACKAGING--PERFLUORINATED CHEMICALS

EFFECTIVE DATE: June 7, 2018

Passed by the House February 12, 2018
Yeas 56 Nays 41

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate February 28, 2018
Yeas 30 Nays 17

KAREN KEISER

President of the Senate

Approved March 21, 2018 11:40 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2658** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 23, 2018

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2658

Passed Legislature - 2018 Regular Session

State of Washington

65th Legislature

2018 Regular Session

By House Environment (originally sponsored by Representatives McBride, Kagi, Peterson, Fitzgibbon, Doglio, Gregerson, Appleton, Jinkins, Ortiz-Self, Macri, Ryu, Pollet, Kloba, Goodman, Frame, and Stanford)

READ FIRST TIME 02/02/18.

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, partnership,
17 organization, joint venture, or corporation that applies a package to
18 a product for distribution or sale.

19 (3) "Packaging component" means an individual assembled part of a
20 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 direct food contact and is comprised, in substantial
5 part, of paper, paperboard, or other materials originally derived
6 from plant fibers.

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, 2022, 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 safer alternatives are available, and the safer
23 alternative determination is supported by feedback from an external
24 peer review of the department's alternatives assessment; and (b)
25 publishes findings, as required under subsection (3) of this section.

26 (2) To determine whether safer alternatives to PFAS chemicals
27 exist, the department of ecology must conduct an alternatives
28 assessment as part of the PFAS chemical action plan that:

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

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

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

35 (3) By January 1, 2020, the department of ecology must publish
36 its findings in the Washington State Register on whether safer
37 alternatives to PFAS chemicals in specific applications of food
38 packaging are available for each assessed application and submit a
39 report with the findings and the feedback from the peer review of the

1 department's alternatives assessment to the appropriate committees of
2 the legislature. In order to determine that safer alternatives are
3 available, the safer alternatives must be readily available in
4 sufficient quantity and at a comparable cost, and perform as well as
5 or better than PFAS chemicals in a specific food packaging
6 application. If an alternative is a chemical, it must have previously
7 been approved for food contact by the United States food and drug
8 administration, such as through the issuance of a determination that
9 the chemical has a reasonable certainty of causing no harm.

10 (4) The prohibition on the use of PFAS chemicals in food
11 packaging:

12 (a) Becomes effective January 1, 2022, if the report required
13 under subsection (3) of this section finds that safer alternatives
14 are available for specific food packaging applications;

15 (b) Does not take effect January 1, 2022, if the report required
16 under subsection (3) of this section does not find that safer
17 alternatives are available for specific food packaging applications.

18 (5) If the department of ecology does not find that a safer
19 alternative is available for some or all categories of food packaging
20 applications, beginning January 1, 2021, and each year following, the
21 department of ecology must review and report on alternatives as
22 described in subsection (2) of this section. The prohibition in this
23 section for specific food packaging applications takes effect two
24 years after a report submitted to the legislature required under
25 subsection (3) of this section finds that safer alternatives are
26 available.

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

29 (~~By July 1, 1993,~~) A certificate of compliance stating that a
30 package or packaging component is in compliance with the requirements
31 of this chapter shall be developed by its manufacturer. For food
32 packaging, a manufacturer shall develop a compliance certificate by
33 the date of a prohibition taking effect under section 2 of this act.

34 If compliance is achieved under the exemption or exemptions provided
35 in RCW 70.95G.030 (~~((3) or (4))~~), the certificate shall state the
36 specific basis upon which the exemption is claimed. The certificate
37 of compliance shall be signed by an authorized official of the
38 manufacturing company. The certificate of compliance shall be kept on
39 file by the manufacturer for as long as the package or packaging

1 component is in use, and for three years from the date of the last
2 sale or distribution by the manufacturer. Certificates of compliance,
3 or copies thereof, shall be furnished to the department of ecology
4 upon request within sixty days. If manufacturers are required under
5 any other state statute to provide a certificate of compliance, one
6 certificate may be developed containing all required information.

7 If the manufacturer or supplier of the package or packaging
8 component reformulates or creates a new package or packaging
9 component, the manufacturer shall develop an amended or new
10 certificate of compliance for the reformulated or new package or
11 packaging component.

Passed by the House February 12, 2018.

Passed by the Senate February 28, 2018.

Approved by the Governor March 21, 2018.

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