
SUBSTITUTE SENATE BILL 6396

State of Washington

65th Legislature

2018 Regular Session

By Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Wellman, Carlyle, McCoy, Van De Wege, Billig, Chase, Keiser, and Kuderer)

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, 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 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 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 specific applications of food
36 packaging is available for each assessed application and submit a
37 report with the findings to the appropriate committees of the
38 legislature.

1 (4) The prohibition on the use of PFAS chemicals in food
2 packaging:

3 (a) Becomes effective January 1, 2022, if the report required
4 under subsection (3) of this section finds that a safer alternative
5 is available for specific food packaging applications;

6 (b) Does not take effect January 1, 2022, if the report required
7 under subsection (3) of this section does not find that a safer
8 alternative is available for specific food packaging applications.

9 (5) If the department of ecology does not find that a safer
10 alternative is available for some or all categories of food packaging
11 applications, beginning January 1, 2021, and each year following, the
12 department of ecology must review and report on alternatives as
13 described in subsection (2) of this section. The prohibition in this
14 section for specific food packaging applications takes effect two
15 years after a report submitted to the legislature required under
16 subsection (3) of this section finds that a safer alternative is
17 available.

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

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

25 If compliance is achieved under the exemption or exemptions provided
26 in RCW 70.95G.030 (~~((3) or (4))~~), the certificate shall state the
27 specific basis upon which the exemption is claimed. The certificate
28 of compliance shall be signed by an authorized official of the
29 manufacturing company. The certificate of compliance shall be kept on
30 file by the manufacturer for as long as the package or packaging
31 component is in use, and for three years from the date of the last
32 sale or distribution by the manufacturer. Certificates of compliance,
33 or copies thereof, shall be furnished to the department of ecology
34 upon request within sixty days. If manufacturers are required under
35 any other state statute to provide a certificate of compliance, one
36 certificate may be developed containing all required information.

37 If the manufacturer or supplier of the package or packaging
38 component reformulates or creates a new package or packaging
39 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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