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HOUSE BILL

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE PER- AND POLY-
FLUOROALKYL PRODUCTS RESTRICTIONS ACT; PROHIBITING CERTAIN
PRODUCTS THAT CONTAIN AN INTENTIONALLY ADDED PER- OR
POLY-FLUOROALKYL SUBSTANCE; REQUIRING DISCLOSURE OF INFORMATION
AND TESTING OF PRODUCTS SOLD, OFFERED FOR SALE OR DISTRIBUTED
FOR SALE IN THIS STATE THAT CONTAIN AN INTENTIONALLY ADDED PER-
OR POLY-FLUOROALKYL SUBSTANCE; PROVIDING PENALTIES; MAKING AN
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Per- and Poly-Fluoroalkyl Products Restrictions
Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Per- and Poly-Fluoroalkyl Products Restrictions Act:

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1 A. "carpet or rug" means a fabric marketed or
2 intended for use as a floor covering;

3 B. "cleaning product" means a finished product used
4 for general cleaning purposes, including:

5 (1) a polish or floor maintenance product;

6 (2) an air care product labeled for the
7 intended use of enhancing or conditioning the indoor
8 environment by eliminating unpleasant odors or freshening the
9 air; and

10 (3) an automotive maintenance product labeled
11 for the intended use of maintaining the appearance of a motor
12 vehicle, but does not include automotive paint or paint repair
13 products;

14 C. "cookware" means durable houseware items used to
15 prepare, dispense or store food, foodstuffs or beverages;

16 D. "cosmetic" means a product or product component,
17 other than soap, intended to be applied to the human body for
18 cleansing, beautifying or promoting attractiveness;

19 E. "currently unavoidable use" means a use of a
20 per- or poly-fluoroalkyl substance that the department has
21 determined by rule to be essential for health, safety or the
22 functioning of society and for which alternatives are not
23 reasonably available;

24 F. "department" means the department of
25 environment;

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1 G. "fabric treatment" means a substance applied to
2 fabric for stain, grease or water resistance or flame
3 retardance;

4 H. "firefighting foam" means a class B firefighting
5 foam intended for use to control or extinguish a fire;

6 I. "food packaging" means a container, unit
7 package, intermediate package or shipping container applied to
8 or providing a means to market, protect, handle, deliver,
9 serve, contain or store a food or beverage, including an
10 individual assembled part of a food package;

11 J. "intentionally added" means a per- or poly-
12 fluoroalkyl substance deliberately added during the manufacture
13 of a product where the continued presence of the per- or
14 poly-fluoroalkyl substance is desired in the final product or
15 one of the product's components to perform a specific function;

16 K. "juvenile product" means a product designed or
17 marketed for use by children under twelve years old, but does
18 not include an electronic product;

19 L. "manufacturer" means:

20 (1) a person that creates, produces or
21 assembles a product or whose brand name is affixed to a
22 product; or

23 (2) in the case of a product imported into the
24 United States, an importer or first domestic distributor of the
25 product; provided that the person that created, produced or

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1 assembled the product or whose brand name is affixed to the
2 product does not have an office or employees in the United
3 States;

4 M. "medical device" means an instrument, apparatus,
5 implement, machine, implant, in vitro reagent or other similar
6 or related device, including any component or accessory, that
7 is:

8 (1) recognized in an official compendium;

9 (2) intended for use in the diagnosis of
10 disease or other conditions, or in the cure, mitigation,
11 treatment or prevention of disease, in a human or animal; or

12 (3) intended to affect the structure or
13 function of the body of a human or animal and that does not
14 achieve its principal intended purposes through chemical action
15 within or on the body of a human or animal and that is not
16 dependent on being metabolized for achievement of its principal
17 intended purpose;

18 N. "per- or poly-fluoroalkyl substance" means a
19 substance in a class of fluorinated organic chemicals
20 containing at least one fully fluorinated carbon atom;

21 O. "product" means an item created, produced,
22 assembled, packaged or otherwise prepared for sale to a
23 consumer, including a product component sold or distributed for
24 personal, residential, commercial or industrial use or for use
25 in making a product;

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1 P. "ski wax" means a lubricant applied to the
2 bottom of a snow runner, including a ski or snowboard, to
3 improve grip or glide properties and includes associated tuning
4 products;

5 Q. "textile furnishings" means a textile product
6 made in whole or part from a natural or synthetic fiber, yarn
7 or fabric that is used as furniture or a decorative accessory;
8 and

9 R. "upholstered furniture" means furniture that is
10 wholly or partially stuffed with a filling material.

11 SECTION 3. [NEW MATERIAL] INFORMATION REQUIRED--
12 EXTENSIONS--WAIVERS.--

13 A. Except as provided in Subsection B of this
14 section, on or before December 31, 2027, a manufacturer of a
15 product sold, offered for sale or distributed for sale in the
16 state that contains an intentionally added per- or poly-
17 fluoroalkyl substance shall submit to the department:

18 (1) a brief description of the product,
19 including a universal product code, stock keeping unit or other
20 numeric code assigned to the product;

21 (2) the purpose for which a per- or poly-
22 fluoroalkyl substance is used in the product;

23 (3) the amount of each per- or poly-
24 fluoroalkyl substance in the product, identified by its
25 chemical abstracts service registry number and reported as an

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1 exact quantity determined using commercially available
2 analytical methods or as falling within a range approved for
3 reporting purposes by the department;

4 (4) the name and address of the manufacturer
5 and the name, address and phone number of a contact person for
6 the manufacturer; and

7 (5) any additional information requested by
8 the department as necessary to meet the requirements of the
9 Per- and Poly-Fluoroalkyl Products Restrictions Act.

10 B. If a manufacturer believes that information
11 substantially equivalent to the information required by
12 Subsection A of this section is available to the department,
13 the manufacturer shall submit information to the department on
14 where the required information is available on or before
15 December 31, 2027.

16 C. Beginning January 1, 2028, a manufacturer shall
17 not sell, offer for sale or distribute for sale in this state a
18 product that contains an intentionally added per- or poly-
19 fluoroalkyl substance unless the manufacturer has received
20 notice from the department that:

21 (1) the information required by Subsection A
22 of this section is adequate; or

23 (2) the department has waived the obligation
24 to submit the information required by Subsection A of this
25 section for the product pursuant to Subsection F or G of this

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1 section.

2 D. A manufacturer shall submit a revision of the
3 information provided on a product within thirty days of a
4 significant change to the information the manufacturer
5 previously submitted or upon the request of the department.

6 E. Upon written approval from the department, a
7 manufacturer may provide the information required by this
8 section to the department for a category or type of product or
9 product component.

10 F. The department may waive the obligation of a
11 manufacturer to submit all or part of the information required
12 by this section if the department determines that substantially
13 equivalent information is already publicly available. The
14 department may grant a waiver to a manufacturer or a group of
15 manufacturers for multiple products or a product category.

16 G. The department may enter into an agreement with
17 one or more other states or political subdivisions of a state
18 to collect information and may accept information to a shared
19 system as meeting the information requirements of this section.

20 H. Upon receiving the information required by
21 Subsection A of this section from a manufacturer, the
22 department shall notify the manufacturer that adequate
23 information has been received or that additional information is
24 required. A manufacturer shall submit to the department any
25 additional information requested by the department within

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1 thirty days of the request.

2 SECTION 4. [NEW MATERIAL] PROHIBITION ON PRODUCTS
3 CONTAINING PER- OR POLY-FLUOROALKYL SUBSTANCES--EXEMPTIONS.--

4 A. Beginning January 1, 2027, a manufacturer shall
5 not sell, offer for sale or distribute for sale in this state
6 the following products if that product contains an
7 intentionally added per- or poly-fluoroalkyl substance:

- 8 (1) carpets or rugs;
- 9 (2) cleaning products;
- 10 (3) cookware;
- 11 (4) cosmetics;
- 12 (5) dental floss;
- 13 (6) fabric treatments;
- 14 (7) juvenile products;
- 15 (8) menstrual hygiene products;
- 16 (9) textile furnishings;
- 17 (10) ski wax;
- 18 (11) upholstered furniture;
- 19 (12) firefighting foam; or
- 20 (13) food packaging.

21 B. Beginning January 1, 2034, a manufacturer shall
22 not sell, offer for sale or distribute for sale in this state a
23 product containing an intentionally added per- or poly-
24 fluoroalkyl substance, unless the department has adopted a rule
25 providing that the use of the per- or poly-fluoroalkyl

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1 substance in that product is a currently unavoidable use. The
2 department may adopt rules to designate that the use of a per-
3 or poly-fluoroalkyl substance in a certain product is a
4 currently unavoidable use; provided that the use of a per- or
5 poly-fluoroalkyl substance in a product listed in Subsection A
6 of this section is prohibited and shall not be designated as a
7 currently unavoidable use.

8 C. The department shall consult with the New Mexico
9 department of agriculture before taking action pursuant to
10 Subsection B of this section with respect to a pesticide,
11 fertilizer, agricultural liming material or plant or soil
12 amendment that contains an intentionally added per- or poly-
13 fluoroalkyl substance.

14 D. The provisions of this section do not apply to:

15 (1) a product for which federal law governs
16 the presence of a per- or poly-fluoroalkyl substance in the
17 product in a manner that preempts state authority;

18 (2) the sale or resale of a used product; or

19 (3) a medical device or drug that is regulated
20 by the United States food and drug administration.

21 SECTION 5. [NEW MATERIAL] TESTING REQUIRED--CERTIFICATE
22 OF COMPLIANCE--EXEMPTION.--

23 A. If the department has reason to believe that a
24 product containing an intentionally added per- or poly-
25 fluoroalkyl substance is being sold, offered for sale or

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1 distributed for sale in the state, the department may direct
2 the manufacturer of the product to, within thirty days, provide
3 the department with testing results that demonstrate the amount
4 of each per- or poly-fluoroalkyl substance, identified by its
5 chemical abstracts service registry number, in the product,
6 reported as an exact quantity determined using commercially
7 available analytical methods or as falling within a range
8 approved for reporting purposes by the department.

9 B. If testing demonstrates that the product does
10 not contain an intentionally added per- or poly-fluoroalkyl
11 substance, the manufacturer shall provide the department with a
12 certificate of compliance attesting that the product does not
13 contain an intentionally added per- or poly-fluoroalkyl
14 substance, the testing results and any other relevant
15 information.

16 C. If testing demonstrates that the product
17 contains an intentionally added per- or poly-fluoroalkyl
18 substance, the manufacturer shall:

19 (1) provide to the department, within thirty
20 days, the information required for a product pursuant to the
21 Per- and Poly-Fluoroalkyl Products Restrictions Act; and

22 (2) notify a person that sells, offers for
23 sale or distributes the product for sale in this state that the
24 product is prohibited in this state and provide the department
25 with a list of the names and addresses of the people notified.

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1 D. The department may notify a person that sells,
2 offers for sale or distributes for sale in this state a product
3 prohibited by the Per- and Poly-Fluoroalkyl Products
4 Restrictions Act that the product is prohibited in this state.

5 E. The provisions of this section do not apply to a
6 medical device or drug that is regulated by the United States
7 food and drug administration.

8 **SECTION 6. [NEW MATERIAL] RULES.--**

9 A. The department shall adopt rules to:

10 (1) create a series of ranges for the amount
11 of a per- or poly-fluoroalkyl substance in a product that
12 contains an intentionally added per- or poly-fluoroalkyl
13 substance for reporting purposes; and

14 (2) identify currently unavoidable uses of a
15 per- or poly-fluoroalkyl substance that are essential for
16 health, safety or the functioning of society and for which
17 alternatives are not reasonably available.

18 B. The department may adopt other rules the
19 department deems necessary to carry out the provisions of the
20 Per- and Poly-Fluoroalkyl Products Restrictions Act.

21 **SECTION 7. [NEW MATERIAL] ENFORCEMENT--CIVIL PENALTY.--**

22 A. A person that violates a provision of the Per-
23 and Poly-Fluoroalkyl Products Restrictions Act or a rule
24 adopted pursuant to that act may be assessed a civil penalty
25 for a first violation not to exceed five thousand dollars

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1 (\$5,000), and for each subsequent violation, a civil penalty
2 not to exceed ten thousand dollars (\$10,000). Penalties
3 collected pursuant to this section shall be deposited in the
4 current school fund.

5 B. The attorney general shall enforce the Per- and
6 Poly-Fluoroalkyl Products Restrictions Act and any rule adopted
7 pursuant to that act and may, at the request of the department,
8 conduct civil investigations and bring civil actions for
9 appropriate relief, including a temporary or permanent
10 injunction to restrain and prevent a violation of that act.

11 SECTION 8. APPROPRIATION.--One hundred thousand dollars
12 (\$100,000) is appropriated from the general fund to the
13 department of environment for expenditure in fiscal year 2026
14 to carry out the purposes of the Per- and Poly-Fluoroalkyl
15 Products Restrictions Act. Any unexpended or unencumbered
16 balance remaining at the end of fiscal year 2026 shall revert
17 to the general fund.