

AMENDED IN SENATE MARCH 28, 2008

SENATE BILL

No. 1313

Introduced by Senator Corbett

February 20, 2008

An act to add Chapter 12 (commencing with Section 108940) to Part 3 of Division 104 of the Health and Safety Code, relating to product safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1313, as amended, Corbett. Product safety: ~~perfluorochemicals.~~
perfluorinated compounds.

Existing law prohibits the manufacture, processing, and distribution in commerce ~~in commeree~~ of any ~~food contact substance, as defined,~~ *product contact* containing certain chemicals found to raise health risks, including polybrominated diphenyl ethers.

This bill would, commencing January 1, 2010, prohibit the manufacture, sale, or distribution of ~~products containing perfluorooctane sulfonate acid (PFOS), perfluorooctanoic (PFOA), higher homologues, or precursors to these chemicals, in concentrations exceeding 0.1%~~ *any food contact substance, as defined, that contains perfluorinated compounds, as defined, in any concentration exceeding 10 parts per billion.*

This bill would also ~~require manufacturers to use nontoxic alternatives when replacing perfluorochemicals (PFCs) or their precursors in their products, and would~~ prohibit manufacturers from replacing ~~PFCs~~ *perfluorinated compounds* with certain carcinogens and reproductive toxins, ~~and would require manufacturers to use alternatives that demonstrate the fewest hazard traits, as defined, when replacing perfluorinated compounds in accordance with the above-described~~

provisions. The bill would impose specified civil penalties for violations of those provisions. The bill would require that civil penalties collected be deposited in the Hazardous Waste Control Account, for expenditure by the Department of Toxic Substances Control, upon appropriation by the Legislature, to implement and enforce those provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*
- 3 (a) *Perfluorochemicals (PFCs) and their precursors have been*
4 *used in the manufacture of stain- and grease-proof coatings for a*
5 *wide variety of consumer products for more than half a century,*
6 *and are now found in human blood and wildlife worldwide.*
- 7 (b) *PFCs and precursor chemicals that break down into PFCs*
8 *in the body, wildlife, or the environment are used as food contact*
9 *substances that represent potential sources of dietary exposure to*
10 *these chemicals.*
- 11 (c) *Recent studies have demonstrated the presence of two*
12 *particular perfluorochemicals, perfluorooctane sulfonate (PFOS)*
13 *and perfluorooctanoic acid (PFOA), in more than 98 percent of*
14 *Americans' blood, and 100 percent of 293 newborns surveyed.*
- 15 (d) *PFOA is considered by the federal Environmental Protection*
16 *Agency (EPA) Science Advisory Board to be a likely carcinogen*
17 *and is considered a chemical that induces breast tumors in animals.*
18 *In addition, PFOA and PFOS have been linked to problems in*
19 *pregnancy, including developmental complications.*
- 20 (e) *Federal Food and Drug Administration (FDA) scientists*
21 *note that food packaging represents the worst-case scenario for*
22 *PFCs to migrate into food. In one FDA study, food packaging*
23 *released several hundred times more PFCs than did cookware*
24 *coated with substances like Teflon.*
- 25 (f) *The EPA has established a voluntary phase-out of certain*
26 *perfluorochemicals, including PFOA, that will go into effect in*
27 *2015. PFOS was removed from the market by the only United*
28 *States manufacturer under pressure by the EPA in 2001.*

1 (g) *It is in the best interest of California to eliminate the*
2 *presence of dangerous perfluorochemicals and their precursors*
3 *in food packaging, as soon as reasonably possible.*

4 SECTION 1.

5 SEC. 2. Chapter 12 (commencing with Section 108940) is
6 added to Part 3 of Division 104 of the Health and Safety Code, to
7 read:

8
9 CHAPTER 12. PERFLUOROCHEMICALS (PFCs)

10
11 108940. ~~The Legislature finds and declares all of the following:~~

12 ~~(a) Perfluorochemicals (PFCs) and their precursors have been~~
13 ~~used in the manufacture of stain- and grease-proof coatings for a~~
14 ~~wide variety of consumer products for more than half a century,~~
15 ~~and are now found in human blood and wildlife worldwide.~~

16 ~~(b) PFCs and precursor chemicals that break down into PFCs~~
17 ~~in the body, wildlife, or the environment are used as food contact~~
18 ~~substances that represent potential sources of dietary exposure to~~
19 ~~these chemicals.~~

20 ~~(c) Recent studies have demonstrated the presence of two~~
21 ~~particular perfluorochemicals, perfluorooctane sulfonate (PFOS)~~
22 ~~and perfluorooctanoic acid (PFOA), in more than 98 percent of~~
23 ~~Americans' blood, and 100 percent of 293 newborns surveyed.~~

24 ~~(d) PFOA is considered by the federal Environmental Protection~~
25 ~~Agency (EPA) Science Advisory Panel to be a likely carcinogen~~
26 ~~and is considered a chemical that induces breast tumors in animals.~~
27 ~~In addition, PFOA and PFOS have been linked to impaired growth~~
28 ~~of babies in the womb.~~

29 ~~(e) Federal Food and Drug Administration (FDA) scientists note~~
30 ~~that food packaging represents the worst-case scenario for PFCs~~
31 ~~to migrate into food. In one FDA study, food packaging released~~
32 ~~several hundred times more PFCs than did cookware coated with~~
33 ~~substances like Teflon.~~

34 ~~(f) The EPA has established a voluntary phase-out of certain~~
35 ~~perfluorochemicals, including PFOA, that will go into effect in~~
36 ~~2015. PFOS was removed from the market by the only United~~
37 ~~States manufacturer under pressure by the EPA in 2001.~~

38 ~~(g) It is in the best interest of California to eliminate the use of~~
39 ~~dangerous perfluorochemicals and their precursors in food~~
40 ~~packaging, as soon as reasonably possible.~~

1 ~~108941. (a) For the purposes of this chapter “Food contact~~
2 ~~108940. For purposes of this chapter, the following definitions~~
3 ~~shall apply:~~

4 (a) *“Food contact substance”* is any substance that directly
5 contacts food, and is intended for use as a component of materials
6 used in manufacturing, packing, packaging, transporting, or holding
7 food if that use is not intended to have a technical effect in the
8 food.

9 (b) *“Precursor”* is any chemical that may reasonably be expected
10 to break down into perfluorooctanoic acid (PFOA), perfluorooctane
11 sulfonate (PFOS), or higher homologues, in the human body,
12 animals, or the environment. When definitive test data are not
13 available, precursors are assumed to include chemicals that contain
14 within their structure PFOA, PFOS, or higher homologues.

15 (b) *“Hazard traits”* means any of the following:

16 (1) Any of the following effects of a substance:

17 (A) Mutagenicity and genetic toxicity.

18 (B) Reproductive effects, including reduction in fertility and
19 birth outcomes, including, but not limited to, birth weight.

20 (C) Developmental toxicity, including physical and metabolic
21 birth defects that are present at birth or that manifest later, and
22 effects on development of any kind, including, but not limited to,
23 motor or cognitive effects that result from exposure at any point.

24 (D) Cancer.

25 (E) Immunological effects including allergic sensitization.

26 (F) Neurological and neurodevelopmental effects.

27 (G) Effects on organs such as the liver, kidney, eye, blood, and
28 heart.

29 (H) Respiratory effects.

30 (I) Endocrine disruption.

31 (J) Other disruptions or perturbations of signaling and hormone
32 systems.

33 (2) Any of the following attributes of a substance:

34 (A) Persistent, as defined in subdivision (d), and
35 bioaccumulative.

36 (B) Very persistent, as defined in subdivision (f).

37 (C) Very bioaccumulative, as defined in subdivision (e).

38 (c) *“Perfluorinated compounds”* means perfluorooctanoic acid
39 (PFOA) or perfluorooctane sulfonate (PFOS), or PFOA- and
40 PFOS-homologues that differ only in the length of the fluorinated

1 *carbons and contain more than five fluorinated carbon atoms, or*
2 *chemicals that are reasonably suspected to degrade in the*
3 *environment to PFOA or PFOS, or PFOA- and PFOS-homologues*
4 *containing more than five carbon fluorinated atoms.*
5 *“Perfluorinated compound” includes all acids, salts, or ionic*
6 *forms of the perfluorinated compounds.*

7 (d) *“Persistent” means having a half-life greater than, or equal*
8 *to, 40 days in marine or freshwater, 60 days in soil or sediment,*
9 *or two days in air.*

10 (e) *“Very bioaccumulative” means having a bioconcentration*
11 *factor or bioaccumulation factor greater than or equal to 5,000.*

12 (f) *“Very persistent” means having a half-life in soil or sediment*
13 *of greater than 180 days, or a half-life greater than or equal to*
14 *60 days in marine or freshwater with evidence of long-range*
15 *transport.*

16 ~~108942.~~

17 108941. (a) On or after January 1, 2010, no person or entity
18 shall manufacture, sell, or distribute in commerce any food contact
19 substance that contains perfluorooctane sulfonate (PFOS);
20 perfluorooctanoic acid (PFOA), higher homologues, or precursors
21 to these chemicals, in any concentration exceeding 10 parts per
22 substance that contains perfluorinated compounds, in any
23 concentration exceeding 10 parts per billion (ppb).

24 ~~108943. (a) Manufacturers shall use nontoxic alternatives~~
25 ~~when replacing perfluorochemicals or their precursors in~~
26 ~~accordance with this chapter.~~

27 ~~(b)~~

28 108942. (a) Manufacturers shall not replace
29 ~~perfluorochemicals or their precursors,~~ *perfluorinated compounds*
30 *pursuant to this chapter, with carcinogens rated by the United*
31 *States Environmental Protection Agency as A, B, or C carcinogens,*
32 *or substances listed as known or likely carcinogens, known to be*
33 *human carcinogens, likely to be human carcinogens, or suggestive*
34 *of being human carcinogens, as described in the “List of Chemicals*
35 *Evaluated for Carcinogenic Potential,” or known to the state to*
36 *cause cancer as listed in the California Safe Drinking Water Act*
37 *(Chapter 4 (commencing with Section 116270) of Part 12).*

38 (e)

39 (b) Manufacturers shall not replace perfluorochemicals or their
40 precursors, pursuant to this chapter, with reproductive toxicants

1 that cause birth defects, reproductive harm, or developmental harm
2 as identified by the United States Environmental Protection Agency
3 or listed in the California Safe Drinking Water Act (Chapter 4
4 (commencing with Section 116270) of Part 12).

5 *(c) Manufacturers shall use alternatives that demonstrate the*
6 *fewest hazard traits when replacing perfluorinated in accordance*
7 *with this chapter.*

8 ~~(d) (1) A person who violates this chapter shall be liable for a~~
9 ~~civil penalty not to exceed two thousand five hundred dollars~~
10 ~~(\$2,500) per day for each violation. That civil penalty may be~~
11 ~~assessed and recovered in a civil action brought in any court of~~
12 ~~competent jurisdiction. The civil action may be brought by the~~
13 ~~attorney general, district attorney, county counsel, or city attorney.~~

14 ~~(2) In assessing the amount of a civil penalty for a violation of~~
15 ~~this chapter, the court shall consider all of the following:~~

16 ~~(A) The nature and extent of the violation.~~

17 ~~(B) The number of, and severity of, the violations.~~

18 ~~(C) The economic effect of the penalty on the violator.~~

19 ~~(D) Whether the violator took good faith measures to comply~~
20 ~~with this article and the time these measures were taken.~~

21 ~~(E) The willfulness of the violator's misconduct.~~

22 ~~(F) The deterrent effect that the imposition of the penalty would~~
23 ~~have on both the violator and the regulated community as a whole.~~

24 ~~(G) Any other factor that justice may require.~~

25 ~~(e) All civil penalties collected pursuant to this chapter shall be~~
26 ~~deposited in the Hazardous Waste Control Account, for expenditure~~
27 ~~by the department, upon appropriation by the Legislature, to~~
28 ~~implement and enforce this chapter.~~