ASSEMBLY THIRD READING
AB 1200 (Ting)
As Amended March 29, 2021
Majority vote

SUMMARY

Prohibits, commencing on January 1, 2023, the sale of food packaging that contains intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS); requires, commencing on January 1, 2024, cookware manufacturers to label their product if it contains an intentionally added chemical on specified lists; and prohibits, commencing on January 1, 2024, a manufacturer from making a claim that cookware is free of a chemical, unless no individual chemical from that chemical class is intentionally added to the cookware.

Major Provisions
Plant-Based Food Packaging Containing PFAS

1) Defines "food packaging" as a nondurable package, packaging component, or food service ware that is intended to contain, serve, store, handle, protect, or market food, foodstuff, or beverages, and is comprised, in substantial part, of paper, paperboard, or other materials originally derived from plant fibers.

2) Defines "perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" as a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

3) Prohibits, commencing on January 1, 2023, a person from distributing, selling, or offering for sale in the state any food packaging that contains intentionally added PFAS.

4) Requires a manufacturer to use the least toxic alternative when replacing PFAS chemicals in products in food packaging.

Chemical Disclosures for Cookware

1) Defines "designated list" as the list of chemicals identified as candidate chemicals that exhibit a hazard trait or an environmental or toxicological endpoint that meets the criteria specified in regulations adopted by the Department of Toxic Substances Control (DTSC) pursuant to the Safer Consumer Products (SCP or Green Chemistry) statute.

2) Requires, commencing on January 1, 2024, a manufacturer of cookware sold in the state that contains one or more intentionally added chemicals present on the designated list to include on the product label a statement, in both English and Spanish, that reads: "This product contains one or more chemicals of concern for human health or the environment as identified by the State of California. For more ingredient information, visit" followed by an address for an internet website that provides the information specified in this bill.

    a) Requires, commencing on January 1, 2023, a manufacturer of cookware sold in the state that contains one or more intentionally added chemicals present on the designated list to post on the internet all of the following: a list of all chemicals in the cookware that are also present on the designated list; the names of the authoritative list or lists referenced

by DTSC in compiling the designated list on which each chemical in the cookware is present; and, a link to the internet website for the authoritative list or lists.

3) Prohibits, commencing on January 1, 2024, a manufacturer from making a claim, either on the cookware package or on the internet, that the cookware is free of any specific chemical if the chemical belongs to a chemical group or class identified on the designated list, unless no individual chemical from that chemical group or class is intentionally added to the cookware.

4) Prohibits a person from selling, offering for sale, or distributing in the state a cookware product that does not comply with the labeling and disclosure provisions in this bill.

COMMENTS

Plant-Based Food Packaging Containing PFAS
Perfluoroalkyl and polyfluoroalkyl substances (PFAS): PFAS are a class of human- made fluorinated organic chemicals that share one common trait – highly stable carbon-fluorine bonds that make them or their final degradation products highly persistent in the environment. PFAS have been used extensively for decades in surface coating and protectant formulations due to their unique ability to reduce the surface tension of liquids, including in consumer products such as carpets, clothing, fabrics for furniture, apparel, paper packaging for food, non-stick cookware, and other products designed to be waterproof or water resistant, grease and stain-resistant, or non-stick. During production, use, and disposal, PFAS can migrate into the soil, water, and air. As of September 2020, more than 9,000 PFAS chemicals were included in the United States Environmental Protection Agency's (US EPA's) Master List of PFAS Substances. PFAS are ubiquitous, and are found in indoor and outdoor environments; in plants, wildlife, companion animals, production animals, and humans; and, in food and drinking water.

Exposure to PFAS: The main route of exposure to PFAS is through ingestion of contaminated food or liquid (accounting for up to half of total exposure), and through inhalation and ingestion of contaminated indoor air and dust. Food can become contaminated with PFAS through contaminated soil and water used to grow the food; food packaging containing PFAS, and equipment that used PFAS during food processing. Studies have shown that PFAS can transfer from pregnant mothers to their fetuses via the placenta during gestation, as well as transfer from nursing mothers to their infants via breastfeeding. Exposure to PFAS in drinking water is an escalating concern due to the persistence of PFAS chemicals in the environment and their tendency to accumulate in groundwater.

Hazard traits of PFAS: According to DTSC, PFAS substances are either extremely persistent in the environment, or they degrade into extremely persistent PFAS, leading them to be deemed, "forever chemicals." Most PFAS are mobile in environmental media such as air and water, and thus are widespread in living organisms and the environment. Several PFAS bioaccumulate significantly in animals or plants and there is emerging evidence of toxicity in these substances. DTSC contends that exposure to PFAS can lead to adverse health outcomes in humans. Studies indicate that some PFAS can cause reproductive, developmental, liver and kidney, and immunological effects, as well as tumors in laboratory animals. The most consistent findings from human epidemiology studies are a small increase in serum cholesterol levels among exposed populations, with more limited findings related to infant birth weights, can affect the immune system and increase the risk of cancer and thyroid hormone disruption. Research suggests that exposure to PFAS may lead to increased cholesterol levels, decreased vaccine response in children, changes in liver enzymes, increased risk of high blood pressure in pregnant

women, decreased infant birth weights, and increased risk of kidney or testicular cancer. Some PFAS have also been linked to phytotoxicity, aquatic toxicity, and terrestrial ecotoxicity.

Regulating PFAS as a class: DTSC, in the February, 2021, *Environmental Health Perspectives* article, "Regulating PFAS as a Chemical Class under the California Safer Consumer Products Program," states, "Regulating only a subset of PFAS has led to their replacement with other members of the class with similar hazards, that is, regrettable substitutions. We at the California DTSC propose regulating certain consumer products if they contain any member of the class of PFAS because: *a*) all PFAS, or their degradation, reaction, or metabolism products, display at least one common hazard trait according to the California Code of Regulations, namely environmental persistence; and *b*) certain key PFAS that are the degradation, reaction or metabolism products, or impurities of nearly all other PFAS display additional hazard traits, including toxicity; are widespread in the environment, humans, and biota; and will continue to cause adverse impacts for as long as any PFAS continue to be used. Regulating PFAS as a class is thus logical, necessary, and forward-thinking."

PFAS exposure via food contact substances: The US EPA contends that people can be exposed to low levels of PFAS through food, which can become contaminated with PFASs through contaminated soil and water used to grow the food; food packaging; and, equipment used to process food. DTSC contends that, "Plant fiber-based food packaging products treated with PFASs for grease, oil, or water resistance can expose humans and biota to PFASs during their manufacturing, use, and end-of-life."

Alternatives to PFAS in food packaging: DTSC's Discussion Draft discusses potential alternatives to PFAS in food packaging. The Discussion Draft notes that, based on well-established business cases, the Nordic Council of Ministers concluded in 2017 that safer and more sustainable alternatives to PFAS in paper and paperboard food packaging products are available for all intended functional uses and food types. The Nordic Council of Ministers also found that, except for natural greaseproof paper, which can be more expensive, alternatives are cost-neutral for retailers.

Chemical Disclosures for Cookware
Chemicals in cookware: According to the Minnesota Pollution Control Agency (MPCA), fluoropolymer coatings are commonly applied to cookware to give it an anti-stick surface. The MPCA notes that Teflon is the most well-known of these non-stick chemicals, the main chemical of which is currently polytetrafluoroethylene (PTFE), a polymer form of PFAS. The MCPA says that when heated to high temperatures, PTFE can start to break down and release toxic fumes, which can be hazardous to both humans and pets (especially birds). Until 2013, Teflon was produced using PFOA, a chemical that has been linked to a number of health conditions and is now present in most people's blood. The MCPA says that although several non-stick cookware brands currently claim to be PFOA-free or Teflon-free, they may have been made with other fluoropolymers with similar properties, and therefore similar concerns as, PFOA. The author's office also points to a December 2020 report by The Ecology Center that found that 79% of tested nonstick cooking pans and 20% of tested nonstick baking pans were coated with the PFAS PTFE. The Ecology Center testing also revealed the presence of BPA in the non-stick coating of some of the cookware and baking pans. The same study found that some labels on cookware make the marketing claim "PFOA free," which refers to one specific PFAS chemical, despite the fact that the cookware may contain PTFE or other PFAS chemicals. The author's office argues

that this sends a false message to the buyer that the product does not contain any PFAS, or other risky chemicals.

According to the Author
"AB 1200 would ban the use of intentionally added PFAS from plant-based food packaging, require cookware manufacturers to attach a disclosure label if certain chemicals are found in their cookware, and require truth in advertising when marketing cookware to be free of certain chemicals. Dangerous chemicals should not be wrapped around our food or leaching into our food from our pots and pans at home. By passing AB 1200, California can assess chemicals that our families are ingesting so that they cannot further damage our health and the environment."

Arguments in Support
Supporters state, "The entire class of PFAS chemicals has been recognized as chemicals of concern by a wide array of scientific experts at both the state and federal level. Federal regulation of food packaging and cookware is woefully inadequate, allowing hazardous chemicals to be used in these products. The result of this failure is that people and the environment are exposed to hazardous chemicals when food packaging and cookware products are manufactured, used, and thrown away (or recycled)… With no federal requirements for any disclosure of chemicals in cookware, consumers are left in the dark and face a plethora of confusing claims, some of which are misleading or inaccurate, particularly when it comes to non-stick surfaces… This lack of transparency leaves the public to potentially and unwittingly expose themselves to hazardous chemicals. Chemicals of concern in cookware may also contribute to pollution both upstream in the manufacturing process and downstream in the disposal phase… AB 1200 would address these issues in combination."

Arguments in Opposition
Opponents state, "AB 1200 proposes a blanket prohibition on all PFAS chemistries that may be used in an expansive list of food packaging applications without any examination of safety, consideration of US Food and Drug Administration requirements, functionality or assessment of potential alternatives. Given the amount of work and time already spent by DTSC on this issue, it would be a prudent use of the state's resources to allow for this regulatory process to be completed… Additionally, the Washington State Department of Ecology (Ecology) recently completed an AA on PFAS in food packaging… [and] did not find appropriate replacements for [many types of] food packaging applications… This [labeling and disclosure for cookware] language is overly broad, lacks credible scientific foundation and inappropriately utilizes a list of chemicals to suggest potential harmful impacts to human health or the environment. We believe this provision should be deleted in its entirety… The business community is already subject to bounty hunter suits under Proposition 65 and AB 1200 could make an already difficult situation worse."

FISCAL COMMENTS

Unknown. This bill is keyed non-fiscal by the Legislative Counsel.

VOTES

ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 6-1-2
YES: Quirk, Arambula, Bauer-Kahan, Cristina Garcia, Holden, Muratsuchi
NO: Megan Dahle
ABS, ABST OR NV: Smith, Mathis

UPDATED

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