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## SENATE COMMITTEE ON HEALTH

Senator Dr. Richard Pan, Chair

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**BILL NO:** AB 1200  
**AUTHOR:** Ting  
**VERSION:** June 14, 2021  
**HEARING DATE:** June 23, 2021  
**CONSULTANT:** Vincent D. Marchand

**SUBJECT:** Plant-based food packaging: cookware: hazardous chemicals

**SUMMARY:** Prohibits food packaging comprised in substantial part of paper or other materials originally derived from plant fibers from containing intentionally added perfluoroalkyl substances (PFAS), requires cookware that contains chemicals designated on the Green Chemistry list of chemicals of concern to list those chemicals on the product label, and prohibits cookware manufacturers from claiming that cookware is free of any specific chemical on the list if the chemical belongs to the same chemical group or class.

**Existing law:**

- 1) Establishes the Green Chemistry program, which requires the California Department of Toxic Substances Control (DTSC) to adopt regulations to establish a process to identify and prioritize those chemicals or chemical ingredients in consumer products that may be considered as being a chemical of concern. Requires these regulations to consider the volume of the chemical in commerce in this state, the potential for exposure to the chemical in a consumer product, and the potential effects on sensitive subpopulations, including infants and children. [HSC §25252]
- 2) Requires DTSC, in adopting the regulations pursuant to 1) above, to reference and use, to the maximum extent feasible, available information from other nations, governments, and authoritative bodies that have undertaken similar chemical prioritization processes, so as to leverage the work and costs already incurred by those entities. [HSC §25252 (b)]
- 3) Identifies, in regulations adopted pursuant to 1) above, chemicals that are candidates for prioritization that exhibit a hazard trait and/or an environmental or toxicological end-point, as is included on one of many specified authoritative lists (often referred to as the “list of lists”). [CCR Title 22 §69502.2]
- 4) Requires DTSC to adopt regulations to establish a process to evaluate chemicals of concern in consumer products, and their potential alternatives, to determine how to best limit exposure or to reduce the level of hazard posed by a chemical of concern. Requires these regulations to specify the range of regulatory responses that DTSC can take following the completion of the alternatives analysis, including imposing requirements on labeling or prohibiting the use of the chemical of concern, among other listed actions. [HSC §25253]
- 5) Prohibits a person from manufacturing, selling, or distributing in commerce any bottle or cup that contains bisphenol A (BPA) if the bottle or cup is designed to be filled with any liquid, food, or beverage intended primarily for consumption from that bottle or cup by children three years of age or younger. [HSC §108940]
- 6) Requires, under the Cleaning Product Right to Know Act of 2017, a manufacturer of cleaning products sold in the state to disclose on the product label, as specified, whether the product

contains any intentionally added ingredients that are including on specified authoritative lists of chemicals that pose risks to human health. [HSC §108954 (a)]

- 7) Requires a manufacturer of cleaning products sold in the state to disclose the manufacturers toll-free telephone number and internet website address on the product label, and if the label does not list all intentionally added ingredients, and requires the label to direct people to their internet website for more ingredient information. [HSC §108954 (b)]

**This bill:**

- 1) Prohibits, commencing January 1, 2023, any person from distributing, selling, or offering for sale any food packaging, as defined, that contains intentionally added PFAS.
- 2) Requires a manufacturer to use the least toxic alternative when replacing PFAS chemicals in products.
- 3) Defines the following terms for purposes of 1) above:
  - a) “Food packaging” means 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. Specifies that food packaging includes, but is not limited to, food or beverage containers, take-out food containers, unit product boxes, liners, wrappers, serving vessels, eating utensils, food boxes, and disposable plates, bowls, or trays;
  - b) “Intentionally added PFAS” means either of the following:
    - i) The presence or use of PFAS in a product or product component that ha a functional or technical effect in the product or product component; or,
    - ii) The presence of PFAS in a product or product component at or above 100 parts per million, as measure in total organic fluorine.
  - c) “PFAS” means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.
- 4) Requires, commencing on January 1, 2023, a manufacturer of cookware sold in California that contains one or more intentionally added chemicals present on a designated list developed pursuant to Green Chemistry regulations, as defined, to post on the internet website for the cookware all of the following:
  - a) A list of all chemicals in the cookware that are also present on the designated list;
  - b) 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,
  - c) A link to the internet website for the authoritative list or lists identified in b) above.
- 5) Requires, commencing on January 1, 2024, a manufacturer of cookware sold in California that contains one or more intentionally added chemicals present on a designated list, as defined, to list the presence of those chemicals on the product label, introduced by the phrase, “This product contains:” and to include on the product label a statement, in both English and Spanish, that reads: “For more information about chemicals in this product, visit” followed

by an address for an internet website that provides the information required in 4) above, and a toll-free telephone number for the manufacturer that a person can call to obtain all of the information required in 4) above.

- 6) Defines the following terms, for purposes of 4) and 5) above:
- a) “Cookware” means durable houseware items that are used in homes and restaurants to prepare, dispense, or store foodstuff, or beverages. Specifies that “cookware” includes, but is not limited to, pots, pans, skillets, grills, baking sheets, baking molds, trays, bowls, and cooking utensils;
  - b) “Designated list” means the list of chemicals identified as candidate chemicals that exhibit a hazard trait or an environmental or toxicological endpoint that meets the criteria in specified Green Chemistry regulations adopted by DTSC and published on DTSC’s internet website;
  - c) “Manufacturer” means either a person or entity who manufactures the cookware and whose name appears on the product label, or a person or entity who the cookware is manufactured for or distributed by, identified by the product label.
  - d) “Product label” means a display of written, printed, or graphic material that appears on, or is affixed to, the exterior of a product, or its exterior container or wrapper that is visible to a consumer, if the product has an exterior container or wrapper.
- 7) Prohibits, commencing on January 1, 2024, a manufacturer from making a claim, either on the cookware package or on the internet website for the cookware, 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.
- 8) Prohibits a person from selling, offering for sale, or distributing a cookware product that does not comply with the provisions in 4) through 7) above.

**FISCAL EFFECT:** This bill is keyed non-fiscal.

**PRIOR VOTES:**

Assembly Floor:	48 - 14
Assembly Environmental Safety and Toxic	6 - 1
Materials Committee:	

**COMMENTS:**

- 1) *Author’s statement.* According to the author, this bill 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 this bill, California can assess chemicals that our families are ingesting so that they cannot further damage our health and the environment.

- 2) *Background on PFAS.* According to the United State Environmental Protection Agency (EPA), PFAS are a group of man-made chemicals that include perfluorooctanoic acid (PFOA), perfluorooctanesulfonic acid (PFOS), GenX, and many other chemicals. GenX is a trade name for a technology that is used to make high performance fluoropolymers (e.g., some nonstick coatings) without the use of PFOA. PFAS have been manufactured and used in a variety of industries around the world since the 1940s. PFOA and PFOS have been the most extensively produced and studied of these chemicals, and both are very persistent in the environment and in the human body – meaning they don’t break down and they can accumulate over time. There is evidence that exposure to PFAS can lead to adverse human health effects. PFAS can be found in the following: food packaged in PFAS-containing materials, processed with equipment that used PFAS, or grown in PFAS-contaminated soil or water; commercial household products, including stain- and water-repellent fabrics, nonstick products like Teflon, polishes, waxes, paints, cleaning products, and fire-fighting foams (which is a major source of groundwater contamination at airports and military bases where firefighting training occurs); drinking water, typically localized and associated with a specific facility, such as a manufacturer, landfill, wastewater treatment plant, or firefighting training facility; and living organisms, including fish, animals and humans where PFAS have the ability to build up and persist over time. Studies indicate that PFOA and PFOS can cause reproductive and developmental, liver and kidney, and immunological effects in laboratory animals. Both chemicals have caused tumors in animal studies. The most consistent findings from human epidemiological studies are increased cholesterol levels among exposed populations, with more limited findings related to infant birth weights, effects on the immune system, cancer (for PFOA), and thyroid disruption (for PFOS).
- 3) *DTSC moving toward regulating food packaging containing PFAS.* DTSC is in the preliminary stages of designating food packaging with PFAS as a priority product, and expects to issue a notice of proposed rulemaking around the end of 2021, with a finalization of the regulation around the end of 2022 and a likely effective date of April 1, 2023. In July of 2020, DTSC released a Discussion Draft entitled “Product – Chemical Profile for Food Packaging Containing Perfluoroalkyl or Polyfluoroalkyl Substances.” In this Discussion Draft, DTSC states that it is proposing to list plant fiber-based food packaging products containing any member of the class of PFAS chemicals as a Priority Product because (1) there is potential for human and other organism exposure to PFAS from these food packaging products, and (2) the exposure has the potential to contribute to or cause significant and widespread adverse impacts. The Discussion Draft states that plant fiber-based food packaging products treated with PFAS for grease, oil, or water resistance can expose humans and biota to PFAS during their manufacturing, use, and end-of-life. PFAS can migrate from food packaging into the packaged food, with migration rates dependent on the temperature, acidity, storage time, and fat content of the food. Used PFAS-treated paper, paperboard, and molded fiber food packaging products are sometimes composted, releasing PFAS into the compost. The Discussion Draft pointed to a policy statement released by the American Academy of Pediatrics (AAP) in 2018 about the risk of food additives on children’s health, which highlighted the potential adverse effects associated with PFAS in food packaging. In general, fetuses, infants, toddlers, and young children experience higher relative exposure levels and are more vulnerable to the effects of environmental toxicants, and this is true for PFAS.
- 4) *Other recent state actions on PFAS.* All PFAS chemicals are candidate chemicals under the Green Chemistry program. In February of 2020, DRTSC initiated formal rulemaking to list carpets and rugs containing PFAS as priority products under the Green Chemistry program,

and expects to finalize the regulation by October 1, 2021, and preliminary alternatives analysis reports for carpets and rugs with PFAS are expected to be due roughly six months later. A similar effort, with a later timeframe, is underway on the use of PFAS on textiles and leathers. Separately, the State Water Board has taken a number of actions related to PFAS in drinking water, including, in July 2020, issuing Investigative Orders to Publicly Owned Treatment Works that receive PFAS in their influent wastewater flow and then potentially distribute it out in the effluent wastewater. The orders require sampling for 31 PFAS compounds. Additionally, the State Water Board issued a General Order in August 2020 for public water systems to sample for and report PFAS.

- 5) *Voluntary phase-out of PFAS in food packaging products.* On July 31, 2020, the U.S. Food and Drug Administration (FDA) announced that manufacturers of certain PFAS used for grease-proofing in paper and paperboard for packaging (such as coatings on some fast food wrappers, to-go boxes, and pizza boxes) have voluntarily agreed to phase-out their sales of these substances for use as food contact substances in the United States. The three-year phase-out began in January 2021, and after the phase-out period ends on January 1, 2024, it is anticipated that it may take up to 18 months to exhaust existing stocks of paper and paperboard products containing these food contact substances from the market.
- 6) *Green Chemistry and the “list of lists.”* In 2008, the Legislature passed AB 1879 (Feuer, Chapter 559, Statutes of 2008) to establish a regulatory process for identifying and prioritizing chemicals of concern in consumer products, to create methods for analyzing alternatives to existing hazardous chemicals, and to ultimately take regulatory action to reduce the level of harm from the chemicals in those products. This body of law is known as the Green Chemistry program, and the subsequent regulations adopted by DTSC are called the Safer Consumer Products (SCP) Program, which took effect in 2013. The idea was to establish a robust and thorough regulatory process rooted in science, rather than the chemical-by-chemical bans proposed in the legislative process, but the permutations of product and chemical combinations are virtually limitless, and DTSC does not have the resources to evaluate all chemicals in every consumer product application. Even the DTSC, writing in support of legislation banning BPA in children’s cups and bottles in 2011, stated that “DTSC does not believe that the (SCP) regulations should ever be viewed as excluding action that the Legislature might take to address specific product related concerns that are brought to its attentions.”

The regulation establishing a “Candidate Chemicals List,” from which DTSC would review and prioritize for action, included all chemicals on one of 23 lists, including chemicals classified by the European Union as carcinogens or reproductive toxicants; chemicals that are identified as Persistent, Bioaccumulative, and Inherently Toxic to the environment by the Canadian Environmental Protection Act; Persistent Bioaccumulative and Toxic Priority Chemicals that are identified by the EPA’s National Waste Minimization Program; chemicals for which notification levels, as defined, have been established by the California Department of Public Health; and various other lists identified by federal, state, or international agencies or organizations. In addition to the 23 different lists, each of which contain numerous chemicals, DTSC can identify additional chemicals of concern that exhibit one or more hazard traits and/or environmental or toxicological endpoints.

This bill requires manufacturers of cookware to provide notification on the product label if any chemical identified on this “list of lists” is intentionally added to the product.

- 7) *Double referral.* This bill is double referred. Should it pass out of this committee, it will be referred to the Senate Committee on Environmental Quality.
- 8) *Prior legislation.* SB 1044 (Allen, Chapter 308, Statutes of 2020) prohibits the manufacture, sale, distribution, and use of class B firefighting foam containing PFAS chemicals by January 1, 2022, with some exceptions, and requires notification of the presence of PFAS in the protective equipment of firefighters.

SB 312 (Leyva, Chapter 315, Statutes of 2020) established the Cosmetic Fragrance and Flavor Ingredient Right to Know Act of 2020, which requires disclosure of specified flavor and fragrance ingredients that are found in cosmetic products that are on any of the authoritative lists as specified in the bill to the California Department of Public Health, which is then required to post on its existing database of cosmetic product information a list of those fragrance and flavor ingredients and their associated health hazards.

AB 1989 (Garcia, Chapter 272, Statutes of 2020) established the Menstrual Products Right to Know Act of 2020, which requires the disclosure of ingredients in menstrual products on the product label and on a website, starting January 1, 2023.

SB 258 (Lara, Chapter 830, Statutes of 2017) established the Cleaning Product Right to Know Act of 2017, which requires manufacturers of cleaning products to disclose chemical ingredients that are found in any of the authoritative lists identified in the bill on the product label and on the manufacturer's website.

AB 1319 (Butler, Chapter 467, Statutes of 2011) enacted the Toxin-Free Infants and Toddlers Act, which prohibited the manufacture, sale, or distribution of any bottle or cup that contained BPA at a detectable level above 0.1 parts per billion, if the bottle or cup is designed or intended to be filled with any liquid, food, or beverage intended primarily for consumption by infants or children three years of age or younger.

AB 1879 (Feuer) enacted the Green Chemistry program, which required DTSC to adopt regulations to establish processes for identifying, prioritizing, and evaluating chemicals of concern and their potential alternatives.

- 9) *Support.* This bill is co-sponsored by Breast Cancer Prevention Partners, Centers for Environmental Health, Clean Water Action, Environmental Working Group, and the Natural Resources Defense Council (sponsors), to ban plant-based food packaging containing intentionally added PFAS, require the disclosure of chemicals of concern in cookware, and prohibit companies from making misleading marketing claims. According to the sponsors, the entire class of PFAS chemicals has been recognized as a chemical of concern by a wide array of scientific experts, and the California legislature recognized PFAS as a class when it passed SB 1044 (Allen) to prohibit their use in firefighting foam. According to the sponsors, Congress adopted a class approach to PFAS when it banned the use of all PFAS in military Meals Ready-to-Eat. The sponsors state that 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). Individual food companies, such as fast-food giant McDonalds, and states such as New York, have been phasing out or banning PFAS from paper-based food packaging. If California doesn't also act, the state risks falling behind in protecting our

communities and environment from the dangers of PFAS in paper-based food packaging. With regard to the requirement that manufacturers of cookware disclose listed chemicals of concern that they use in their product, the sponsors note that this list already serves as the basis for the disclosure of chemicals of concern in several other product sectors, including cleaning, personal care and beauty, and menstrual products. Although the list has thousands of chemicals, manufacturers only need to disclose the chemicals that they use that are on the list. The chemicals on this list are linked to cancer, reproductive or developmental harm, neurotoxicity, hormone disruption, and allergies— and many are also air and water contaminants. The current lack of transparency in what chemicals are used in cookware leaves the public to potentially and unwittingly expose themselves to hazardous chemicals. Finally, with regard to the prohibition on making misleading claims, the sponsors state that many cookware brands are marketing their products as “PFOA-free,” which can mislead consumers to believe that a product is safe. Just because a piece of cookware doesn’t have one specific PFAS, doesn’t mean it is void of other PFAS chemicals. By providing a truth in advertising provision, Californians can avoid being deceived by marketing to believe that their cookware is safe when it really isn’t.

10) *Oppose unless amended.* An oppose unless amended letter was submitted by a coalition of organizations led by the American Chemistry Council and including the California Manufacturers and Technology Association, the California Retailers Association, the California Restaurant Association, the American Forest and Paper Association, the California Chamber of Commerce, the Chemical Industry Council of California, and the Association of Home Appliance Manufacturers (coalition). The coalition identified a number of concerns with this bill, including the scope of potentially impacted products, the definition of “intentionally added,” and compliance date alignment, among other concerns. With regard to the scope of potentially impacted products, the coalition states that the open-ended definition of “cookware” means the products ranging from the smallest measuring spoon to large industrial ovens could be in the scope. Internal electrical components of refrigerators or ovens such as motors or circuit boards may include certain chemicals on the candidate chemicals list but as used do not result in the potential for direct consumer exposures, and argues that these types of components of covered products should be exempted from these requirements. The coalition states the definition of “intentionally added” is unclear and does not apply to all provisions of the bill, and requests that a definition used in a previous ingredient disclosure bill be used to provide consistent state policy. Regarding the prohibition on PFAS in food packaging, the coalition notes that manufacturers have entered into a voluntary agreement with the FDA to phase out the use of PFAS substances in these applications by 2024, and requests this bill conform to that date by extending compliance for one additional year. Finally, the coalition states that very small items that fall under the definition of cookware may not have physical space to include a product label, and in these instances argue that there should be a mechanism to comply via an online posting only, and that the coalition questions the need for manufacturers to establish a dedicated toll-free number, given the movement toward online accessibility of product information.

11) *Policy comments.*

a) *Should label be limited to instance where cookware comes into contact with food?* This bill, among other provisions, requires all cookware that contains a candidate chemical of concern that has been listed on one of the “list of lists” pursuant to Green Chemistry regulations, to list the presence of those chemicals on the product label. However, the definition of “cookware” is broad, and includes, but is not limited to, durable houseware

items used in homes and restaurants to prepare, dispense, or store foodstuff or beverages. Under this definition, a refrigerator is used to store foodstuff, and might be considered cookware, but any chemicals of concern added to a refrigerator could be in electronic parts that have no contact with food. Even if the definition were narrowed to exclude large appliances such as refrigerators and stoves, a product such as an electronic rice cooker might have a nonstick insert that contains PFAS and for which a label is appropriate; on the other hand, that rice cooker could have no chemicals of concern added to a part of the cooker that came in contact with food, but the electronic circuitry may have a chemical of concern (copper is one of the listed candidate chemicals of concern), and trigger the label requirement. The author may wish to restrict the label notification requirement to instances where the chemical of concern is in a part of the cookware that comes into contact with food or beverages.

- b) *Definition of “intentionally added” needs to be added to cookware labeling requirement.* Both the requirement in this bill prohibiting PFAS in food packaging, and the requirement to for cookware to include on the label when a chemical of concern is added, use the term “intentionally added.” However, only the PFAS section of this bill includes a definition of “intentionally added.”
- c) *What about small items that may not have a product label?* The definition of “cookware” includes cooking utensils. Some cooking utensils, such as spoons and spatulas, might be sold with just a price sticker, and without a label large enough for the information required by this bill.

#### **SUPPORT AND OPPOSITION:**

**Support:** Breast Cancer Prevention Partners (co-sponsor)  
 Center for Environmental Health (co-sponsor)  
 Clean Water Action (co-sponsor)  
 Environmental Working Group (co-sponsor)  
 Natural Resource Defense Council (co-sponsor)  
 Alliance of Nurses for Healthy Environments  
 American Academy of Pediatrics, California  
 American College of Obstetricians and Gynecologists District IX  
 Association of California Water Agencies  
 Ban Single Use Plastics  
 Black Women for Wellness Action Project  
 Breast Cancer Action  
 Breast Cancer Over Time  
 California Alliance of Nurses for Healthy Environments  
 California Association of Sanitation Agencies  
 California Compost Coalition  
 California Health Coalition Advocacy  
 California Healthy Nail Salon Collaborative  
 California Municipal Utilities Association  
 California Product Stewardship Council  
 Californians Against Waste  
 CALPIRG  
 Center for Community Action & Environmental Justice  
 Center for Food Safety  
 Center for Oceanic Awareness, Research, and Education



Center for Public Environmental Oversight  
City/County Association of Governments of San Mateo County  
Clean Production Action  
Compost Manufacturing Alliance  
Consumer Attorneys of California  
Consumer Federation of California  
Consumer Reports Advocacy  
Courage California  
Defend Our Health  
East Bay Municipal Utility District  
Educate. Advocate.  
Erin Brockovich Foundation  
FACTS: Families Advocating for Chemical & Toxins Safety  
Friends Committee on Legislation of California  
Friends of the Earth  
Heal the Bay  
Integrated Resource Management, LLC  
Just Transition Alliance  
Keep A Breast Foundation  
Los Angeles County Sanitation Districts  
MADE SAFE/ Nontoxic Certified  
Marin Sanitary Service  
Michael J Fox Foundation  
National Stewardship Action Council  
Northern California Recycling Association  
Orange County Water District  
Pacoima Beautiful  
Plastic Oceans International  
Plastic Pollution Coalition  
Re-Think Disposable  
Recology  
Repurpose, Inc.  
Resource Recovery Coalition of California  
Safer States  
San Francisco Baykeeper  
San Francisco Bay Physicians for Social Responsibility  
Save the Albatross Coalition  
Save Our Shores  
Science and Environmental Health Network  
Seventh Generation Advisors  
Sierra Club California  
Social Compassion in Legislation  
The Five Gyres Institute  
UPSTREAM  
Wishtoyo Chumash Foundation  
Women's Voices for the Earth  
Woodland Coalition for Green Schools  
WorkSafe  
Zero Waste USA

**Oppose:** American Chemistry Council (unless amended)  
American Forest & Paper Association (unless amended)  
Association of Home Appliance Manufacturers (unless amended)  
California Chamber of Commerce (unless amended)  
California Manufacturers & Technology Association (unless amended)  
California Restaurant Association (unless amended)  
California Retailers Association (unless amended)  
Chemical Industry Council of California (unless amended)  
Food Service Packaging Institute (unless amended)

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