

Date of Hearing: May 10, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

AB 1423 (Schiavo) – As Amended April 13, 2023

Policy Committee: Environmental Safety and Toxic Materials      Vote: 7 - 2

Urgency: No      State Mandated Local Program: No      Reimbursable: No

**SUMMARY:**

This bill prohibits, commencing January 1, 2025, the manufacturing or sale of artificial turf or a synthetic surface that resembles grass (covered surface) that contains PFAS, and prohibits, commencing January 1, 2024, certain entities from purchasing or installing artificial turf that contains PFAS.

Specifically, this bill, among other things:

- 1) Requires, commencing January 1, 2024, a manufacturer or installer of a covered surface proposing to design, sell, or install a field with a covered surface to any party to notify the party at the earliest possible date that the covered surface contains PFAS.
- 2) Prohibits, commencing January 1, 2024, a covered surface containing PFAS from being purchased or installed by any of the following entities:
  - a) A public entity, including a charter city, charter county, city, or county.
  - b) A public or private school serving pupils in kindergarten or any of grades one to 12.
  - c) A public or private institution of higher education, except the University of California.
- 3) Exempts those entities above that have concluded the design and permitting of a covered surface, contracted for the installation of a covered surface, or purchased a covered surface on or before December 31, 2023, from the prohibition.
- 4) Requests, commencing January 1, 2024, the University of California to comply with the prohibition.
- 5) Prohibits, commencing January 1, 2025, a person or entity from manufacturing, distributing, selling, or offering for sale in the state any covered surface that contains PFAS.
- 6) Provides that, upon an action brought by the Attorney General, a city attorney, a county counsel, or a district attorney, a person or entity that violates the provisions of this bill shall be liable for specified civil penalties.
- 7) Requires a manufacturer of a covered surface to use the least toxic alternative when replacing regulated PFAS in a covered surface.

**FISCAL EFFECT:**

- 1) Potential General Fund costs, of an unknown amount, to the University of California (UC), to the extent the cost of alternatives to a covered surface containing PFAS is more expensive. The UC has nine undergraduate campuses with various intercollegiate athletic facilities that may use artificial turf or synthetic surfaces that resemble grass.
- 2) Potential Proposition 98 General Fund costs, of an unknown amount, to local educational agencies, to the extent the cost of alternatives to a covered surface containing PFAS is more expensive. The state has over 11,000 schools.
- 3) The Department of Justice (DOJ) anticipates minor and absorbable costs as a result of this bill but notes as numerous bills this session may result in no significant impact to DOJ, should an aggregate of these bills become law, DOJ would need to request additional resources to process the increase to its workload.

#### COMMENTS:

- 1) **Purpose.** According to the author:

Artificial turf has been found to contain PFAS, and as fields age, the artificial turf releases microplastic dust that contains PFAS. Children are particularly at risk of inhaling and ingesting this dust as they play on fields. AB 1423 empowers consumers to avoid artificial grass that uses PFAS in manufacturing, and it further ensures that fields installed in schools and by the state in the future will not contain PFAS, protecting youth and preventing the long term health impacts of PFAS.

- 2) **Background.**

**Addressing PFAS.** PFAS are a ubiquitous class of more than 9,000 synthetic chemicals that have been in use in a wide range of industrial and consumer products since the 1940s for their heat, water, and lipid resistance properties. PFAS are linked to a variety of health harms, such as cancer, endocrine disruption, developmental and reproductive toxicity, and immune dysregulation. These chemicals are harmful at extremely low doses; contaminate the air, soil, drinking water, plants and wildlife during production, use and disposal; and are extremely persistent in the environment. In fact, PFAS are commonly referred to as “forever chemicals” because they do not break down and instead bioaccumulate and persist in human and animal tissues.

Several state agencies, including the Department of Toxic Substances Control (DTSC), the State Water Board, and the Office of Environmental Health Hazard Assessment, have undertaken efforts to address PFAS. The Legislature has also enacted bans on PFAS in textiles, food packaging, juvenile products, certain cosmetics, and firefighting foam; authorized the State Water Board to order public water systems to monitor for PFAS; and required municipalities to notify customers for PFAS detected above notification levels.

**PFAS in Synthetic Turf.** As part of its Safer Consumer Products “2021-2023 Priority Product Work Plan”, DTSC notes it is interested in PFAS in synthetic turf due to multiple public comments received on its proposed regulations to list carpets and rugs containing PFAS as a Priority Product. DTSC points to information provided to it by the Synthetic Turf Council, which estimates there are currently between 12,000 and 13,000 synthetic turf sports

fields in the United States, with 1,200 to 1,500 new installations each year. The Synthetic Turf Council estimates that 750 fields are replaced each year. DTSC argues the use of artificial turf at outdoor facilities is of concern since these facilities are frequently used by sensitive subpopulations, including young children. While air circulation is generally better in an outdoor application, there is also an increased potential for exposure to concerning chemicals in turf due to faster material degradation by outdoor elements, such as ultraviolet light, and high friction athletic use. According to DTSC, the PFAS present in artificial turf may contribute to or cause adverse impacts to sensitive subpopulations. Therefore, DTSC plans to leverage its prior work on PFAS in carpets and rugs and other products to evaluate PFAS in artificial turf. This evaluation is pending.

**Enforcement.** Like this bill, most of the state's chemical prohibition bills are placed in what is sometimes referred to as the "orphan codes." In these code sections, no state agency is designated to provide oversight of the provisions of the law. As a result, there is no compliance program, no guidance for manufacturers seeking to comply with these laws, no related information for consumers, and no state entity investigating complaints, testing products for compliance, or bringing enforcement actions against violators. This bill and the bills listed under "related legislation" include provisions that provide the Attorney General (AG) and local government attorneys with specified civil penalties to bring against violators of the law. These penalty provisions are in addition to the AG's existing authority to enforce this and related product safety bills, such as through the Unfair Competition Law (UCL), although this committee and the policy committee are not aware of any enforcement actions taken by the AG or a district attorney under the UCL, or any other law, to enforce the chemical prohibition laws under the "orphan codes." The authors of these bills, committee staff, and stakeholders are continuing to discuss what a more comprehensive enforcement program might look like for laws regulating dangerous chemicals in consumer products.

- 3) **Related Legislation.** AB 246 (Papan) prohibits, commencing January 1, 2025, a person from manufacturing, distributing, selling, or offering for sale in the state any menstrual products that contain regulated PFAS. AB 246 is pending on the Assembly Floor.

AB 418 (Gabriel) prohibits, commencing January 1, 2025, a person or entity from manufacturing, selling, delivering, distributing, holding, or offering for sale in commerce a food product that contains any of several specified substances. AB 418 is pending on the Assembly Floor.

AB 727 (Weber) prohibits, beginning January 1, 2025, a person from manufacturing, selling, delivering, distributing, holding, or offering for sale a cleaning product that contains intentionally added PFAS or PFAS at or above 50 parts per million (PPM) and on January 1, 2027, a cleaning product that contains PFAS at or above 25 PPM. AB 727 is pending on the Assembly Floor.

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