

ASSEMBLY THIRD READING

AB 1423 (Schiavo)

As Amended April 13, 2023

Majority vote

SUMMARY

Prohibits, commencing January 1, 2025, the manufacturing or sale of artificial turf that contains perfluoroalkyl and polyfluoroalkyl substances (PFAS), as defined, and prohibits, commencing January 1, 2024, a public entity, a public or private school, or a public or private institution of higher learning, as specified, from purchasing or installing artificial turf that contains PFAS.

Major Provisions

- 1) Defines "regulated PFAS" as including either of the following:
 - a) PFAS that a manufacturer has intentionally added to a product and that has a functional or technical effect in the product; or,
 - b) The presence of PFAS in a product or product component at or above one part per million (ppm), as measured in total organic fluorine.
- 2) Requires, commencing January 1, 2024, a manufacturer or installer of artificial turf proposing to design, sell, or install a field with artificial turf to any party to notify the party at the earliest possible date that the artificial turf contains regulated PFAS.
- 3) Prohibits, commencing January 1, 2024, artificial turf containing regulated 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 1 to 12, inclusive; or,
 - c) A public or private institution of higher education, except the University of California.
- 4) Requests, commencing January 1, 2024, the University of California to comply with the prohibition on the purchase or installation of artificial turf containing regulated PFAS.
- 5) Prohibits, commencing January 1, 2025, a person or entity from manufacturing, distributing, selling, or offering for sale in the state any artificial turf that contains regulated 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 PFAS restrictions in artificial turf provisions of this bill shall be liable for a civil penalty not to exceed \$5,000 for a first violation, and not to exceed \$10,000 for each subsequent violation.

COMMENTS

Perfluoroalkyl and polyfluoroalkyl substances (PFAS): Per- and polyfluorinated substances (PFASs) are a large group of synthetic, highly fluorinated substances that have been widely used in industrial and consumer applications for their heat, water, and lipid resistance properties for

more than seven decades. PFAS are long-lasting chemicals that break down very slowly over time. PFAS are ubiquitous, and researchers have found PFAS in indoor and outdoor environments, plants, soil, food, drinking water, wildlife, companion animals, production animals, and humans at locations across the nation and around the globe. Scientific studies have shown that exposure to some PFAS may be linked to harmful health effects in humans and animals. More than 9,000 PFAS chemicals are included in the United States Environmental Protection Agency's (US EPA's) Master List of PFAS Substances.

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 uses PFAS during food processing. Some foods, such as fish, meat, eggs and leafy vegetables, may contain PFAS due to bioaccumulation and crop uptake. 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. Dermal exposure is also possible when people touch products treated with PFAS, such as carpets or clothing. Young children may be susceptible to higher levels of exposure than adults because they ingest more dust containing PFAS and mouth PFAS-treated consumer products. Workers, such as carpet installers, carpet cleaners, firefighters, and workers in furniture, furnishings, outdoor clothing, and carpet stores, may also experience above average PFAS exposure levels.

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: An intrinsic property of PFAS is the extreme environmental persistence of either the individual compounds or their degradation products or both, resulting in their classification as "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 emerging evidence points to their phytotoxicity, aquatic toxicity, and terrestrial ecotoxicity.

According to the US EPA, current peer-reviewed scientific studies have shown that exposure to certain levels of PFAS may lead to: reproductive effects such as decreased fertility or increased high blood pressure in pregnant women; developmental effects or delays in children, including low birth weight, accelerated puberty, bone variations, or behavioral changes; increased risk of some cancers, including prostate, kidney, and testicular cancers; reduced ability of the body's immune system to fight infections, including reduced vaccine response; interference with the body's natural hormones; and, increased cholesterol levels and/or risk of obesity.

Regulating PFAS as a class: The Department of Toxic Substances Control (DTSC) has adopted a rationale for regulating PFAS chemicals as a class, concluding, "it is both ineffective and impractical to regulate this complex class of chemicals with a piecemeal approach." This rationale was presented in the February, 2021, *Environmental Health Perspectives* article, "Regulating PFAS as a Chemical Class under the California Safer Consumer Products Program," which states, "The widespread use, large number, and diverse chemical structures of PFAS pose challenges to any sufficiently protective regulation, emissions reduction, and remediation at contaminated sites. Regulating only a subset of PFAS has led to their replacement with other

members of the class with similar hazards, that is, regrettable substitutions... Regulating PFAS as a class is thus logical, necessary, and forward-thinking."

PFAS in turf: DTSC notes that it is interested in PFAS in synthetic turf due to multiple public comments received on its proposed regulations to list carpets and rugs containing PFASs as a Priority Product under its Safer Consumer Products program. DTSC points to testing on artificial turf commissioned by two non-profit organizations, Public Employees for Environmental Responsibility (PEER) and The Ecology Center. The testing, which appears to have been on 10 samples of artificial turf (one new, one manufactured in 2004, and eight of unclear manufacturing dates), found elemental fluorine and specific PFAS chemicals, which they argue suggests that PFAS is an ingredient of the carpet grass fibers or the backing, or a byproduct of the manufacturing process. PEER and The Ecology Center also report that that they found turf patents and industry literature discussing the widespread use of PFAS as a plastic processing aid to enhance smoothness and reduce friction. It should be noted that, in response to the media coverage of these reports, the Synthetic Turf Council put out a statement that condemned the groups' "inaccurate, non-verified report using questionable test methods."

Through the Safer Consumer Products Program, DTSC has previously evaluated PFASs in carpets and rugs, as well as in other consumer products. DTSC says that, as with carpets and rugs, PFASs may be used in the manufacture of artificial turf as an aid in molding and extrusion of the plastic blades, or may be applied to the finished product to enhance surface properties. According to DTSC, the PFASs present in artificial turf have a similar potential to contribute to or cause adverse impacts to sensitive subpopulations.

This bill: This bill prohibits, commencing January 1, 2025, a person or entity from manufacturing, distributing, selling, or offering for sale in the state any artificial turf that contains PFAS at or above one ppm. It also prohibits, commencing January 1, 2024, a public entity, a public or private school, or a public or private institution of higher learning, as specified, from purchasing or installing artificial turf that contains PFAS at that level. Finally, also commencing January 1, 2024, it requires a manufacturer or installer of artificial turf proposing to design, sell, or install a field with artificial turf to any party to notify the party at the earliest possible date that the artificial turf contains regulated PFAS.

Enforcement: Like this bill, most of the state's chemical prohibition bills were 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: This bill provides the Attorney General and other government attorneys with specified civil penalties to bring against violators of the law. These penalty provisions are in addition to the Attorney General's existing authority to enforce this, and related product safety statutory provisions, such as through the Unfair Competition Law. The author of this bill, Committee staff, and stakeholders are continuing to discuss the development of a more comprehensive enforcement program for laws regulating dangerous chemicals in consumer products.

According to the Author

"PFAS are a class of "forever chemicals" which, when ingested, inhaled, or contacted with the skin can harm human and environmental health. This includes negative impacts on the immune

system, cardiovascular system, childhood development, and risks of cancer. 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."

Arguments in Support

According to a coalition of supporters, "The Swedish Environmental Protection Agency conducted studies on the amount of plastic and microplastics shed from artificial turf annually, finding an average of 5 grams of particles under 300 microns per square meter per year... California has over 1000 turf fields, and if each is just the size of a football field (5,351 square meters), that's over 50,000 pounds of plastic particles shed a year. With PFAS a component of this dust, and our children are particularly exposed, California must act to protect our children from these toxic forever chemicals. And, the shedding PFAS can end up in the environment and drinking water through runoff from turf. .. AB 1423 addresses this issue by requiring those selling or installing turf to let buyers know that it contains PFAS... The bill then bans further installation of turf with PFAS commencing on January 1, 2025. There is an exemption for entities that are well into the process of installing turf after the bill becomes law."

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, enactment of this bill could result in potential General Fund costs, of an unknown amount, to the University of California, to the extent the cost of alternatives to artificial turf containing PFAS is more expensive. The University of California has nine undergraduate campuses with various intercollegiate athletic facilities that may use artificial turf or synthetic surfaces that resemble grass. Enactment of this bill could also result in potential Proposition 98 General Fund costs, of an unknown amount, to local educational agencies, to the extent the cost of alternatives to artificial turf containing PFAS is more expensive. The state has over 11,000 schools. Additionally, the Department of Justice (DOJ) anticipates minor and absorbable costs as a result of enactment of this bill. The DOJ notes, however, that while enactment of individual chemical prohibition bills this legislative session may result in no significant impact to the DOJ, should several of the current chemical prohibition bills with similar enforcement provisions become law, the DOJ would need to request additional resources to process the increase in its workload.

VOTES

ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 7-2-0

YES: Lee, Arambula, Bauer-Kahan, Connolly, McKinnor, Pacheco, Zbur

NO: Hoover, Ta

ASM APPROPRIATIONS: 11-4-1

YES: Holden, Bryan, Calderon, Wendy Carrillo, Mike Fong, Hart, Lowenthal, Papan, Pellerin, Weber, Ortega

NO: Megan Dahle, Dixon, Mathis, Sanchez

ABS, ABST OR NV: Robert Rivas

UPDATED

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