

---

## SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Anna M. Caballero, Chair

2023 - 2024 Regular

---

**Bill No:** AB 1423  
**Author:** Schiavo  
**Version:** 7/3/23  
**Consultant:** Rounds

**Hearing Date:** 7/12/23  
**Tax Levy:** No  
**Fiscal:** Yes

### ***PRODUCT SAFETY: PFAS: ARTIFICIAL TURF OR SYNTHETIC SURFACES***

*Bans the installation of artificial turf containing specified levels of Perfluoroalkyl and polyfluoroalkyl substances (PFAS) at certain public and private institutions, including local schools, and completely bans the manufacture, distribution, and sale of the same type of turf.*

#### **Background**

The California Constitution allows a city or a county to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental ‘police power’ that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public. Such local authority includes the power to pass local ordinances providing for the health and safety of the residents under its jurisdiction. The California Constitution also provides that state government is empowered to pass, execute, and interpret “general laws” through its legislative, executive, and judicial branches, respectively. “General laws” have uniform application across the territory of the state.

**Perfluoroalkyl and polyfluoroalkyl substances (PFAS).** Per- and polyfluoroalkyl substances (PFAS) are a large group of synthetic substances that have been widely used in industrial and consumer applications for their heat, water, and oil resistance properties since their invention in the 1930s. PFAS are used extensively in carpets, furniture fabrics, apparel, paper packaging for food, non-stick cookware, personal care products, and other products designed to be waterproof; grease, heat, water and stain resistant; or, non-stick. Commercial applications span many sectors of the economy, including aerospace, apparel, automotive, building and construction, pharmaceuticals, medical devices, paints, electronics, semiconductors, energy, oil and gas exploration, first responder safety, firefighting foams, and health care.

Scientific studies have shown that exposure to some PFAS may be linked to harmful health effects in humans and animals. PFAS are long-lasting chemicals that break down very slowly over time. During production, use, and disposal, PFAS can migrate into the soil, water, and air. PFAS have been found in indoor and outdoor environments, plants, soil, food, drinking water, wildlife and domestic animals, and humans. The persistence and proliferation of PFAS chemicals makes it challenging to study and assess the overall potential human health and environmental risks of PFAS exposure.

**PFAS Regulation.** There are many thousands of chemicals in the PFAS class (the US EPA’s master list of PFAS chemicals listed over 12,000) and more types of PFAS can be developed. DTSC has adopted a rationale for regulating this large and diverse number of PFAS chemicals as a class rather than with a piecemeal approach. This is because all PFAS share at least one

common hazard trait and regulations that focus on subsets of these chemicals have resulted in their replacement with other PFAS with similar hazards.

**Department of Toxic Substance Control's (DTSC) Safer Consumer Products Program.**

DTSC administers the Safer Consumer Products (SCP, previously known as Green Chemistry) Program, which aims to advance the design, development, and use of products that are chemically safer for people and the environment. DTSC's approach provides science-based criteria and procedures for identifying and evaluating alternatives with the objective of replacing chemicals of concern with safer chemicals and avoiding the use of substitute chemicals that pose equal or greater harm. Under DTSC's SCP Program, all PFAS chemicals are "Candidate Chemicals" because they exhibit specified hazard traits. DTSC has designated two product categories that contain PFAS as "Priority Products": carpets and rugs and certain surface treatments. A Priority Product is a consumer product identified by DTSC that contains one or more Candidate Chemicals and that has the potential to contribute to significant or widespread adverse impacts to humans or the environment. Manufacturers of a Priority Product must submit certain documentation regarding their product to DTSC and submit an alternatives analysis or they can remove the product for sale in California or remove or replace the chemical of concern. DTSC has proposed evaluating artificial turf with PFAS in its 2021-2023 Priority Product Work Plan, and previously proposed investigating PFAS in other product categories, such as food packaging and children's products.

The Environmental Working Group wants to prohibit public entities (including local governmental agencies), public and private schools, and public and private institutions of higher education from purchasing or installing artificial turf containing PFAS (at specified levels) beginning January 1, 2024. Environmental Working Group also wants to require other entities considering the purchase and installation of artificial turf to be notified that the turf contains PFAS at specified levels and wants to ban the manufacture, distribution, and sale of artificial turf containing PFAS (at specified levels) beginning 2026.

**Proposed Law**

Assembly Bill 1423 prohibits the following from purchasing or installing covered surfaces containing intentionally added PFAS or PFAS at or above 20 ppm:

- Any public entity (including local governmental agencies)
- A public or private school serving pupils K through 12
- A public or private institution of higher education

AB 1423's ban on purchases begins on January 1, 2024, but does not affect any of the above who 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. The measure requests but does not require the University of California to comply with the installation prohibition that commences January 1, 2024.

Commencing January 1, 2024, AB 1423 also requires a manufacturer or installers of "covered surfaces" that propose to sell, design, or install a field with artificial turf containing intentionally added PFAS or PFAS at or above 20 ppm to notify the recipient of the turf. The measure defines a "covered surface" as artificial turf or a synthetic surface resembling grass. In determining whether "covered surfaces" contain PFAS at the prohibited level, AB 1423 specifies that relevant testing must occur after manufacture but before installation.

Commencing January 1, 2026, AB 1423 would also prohibit any person or entity from manufacturing, distributing, selling, or offering for sale in the state any “covered surface” containing intentionally added PFAS or PFAS at or above 20 ppm, effectively banning the product.

AB 1423 additionally requires manufacturers of “covered surfaces” to use the least toxic alternative when replacing PFAS in a “covered surface” and requires that those manufacturers conduct their analysis to determine the least toxic alternative in compliance with the requirements of the Green Chemistry Act.

The bill repeals its prohibitions if DTSC adopts a regulatory response governing the activity covered by it. AB 1423 also 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 of this bill shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for a first violation, and not to exceed ten thousand dollars (\$10,000) for each subsequent violation.

The measure provides that if DTSC adopts regulations that conflict with this authority, the Attorney General, city attorney, county counsel, or district attorney may resolve any action brought prior to the adoption of DTSC regulations, but shall no longer be authorized to bring any action after new DTSC regulations become effective.

The bill provides that, except as described above in the bill requirements limiting legal action following the adoption of alternative regulations by DTSC, its penalty provisions do not impair or impede any other rights, causes of action, claims, or defenses available under any other law and provides that the remedies delineated by it are cumulative with any other remedies available under any other law.

### **State Revenue Impact**

No estimate.

### **Comments**

1. Purpose of the bill. 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 fields have been found to contain PFAS, and, as fields age, they release microplastic dust that contains PFAS. Children are particularly at risk of inhaling and ingesting this dust as they play on fields. AB 1423 protects youth and adult athletes by ensuring that fields installed in schools and by public agencies do not contain PFAS and that artificial turf of the future does not contain these harmful chemicals.”

2. Home Rule. AB 1423 bars local public agencies, among others, from purchasing or installing covered surfaces containing intentionally added PFAS or PFAS at or above 20 ppm. However, local agencies are generally free to choose to purchase the materials necessary to cost-effectively provide public services, which AB 1423 would limit. While research demonstrates the public health harms of these chemicals, the Committee may want to consider whether this decision is best left to local officials who know their communities best.

3. Charter Cities. The California Constitution allows cities that adopt charters to control their own “municipal affairs.” In all other matters, charter cities must follow the general, statewide laws. Because the Constitution doesn't define “municipal affairs,” the courts determine whether a topic is a municipal affair or an issue of statewide concern. AB 1423 says that its provisions apply to all cities, including charter cities because of the potential public health harm due to the presence of PFAS in any public park or public space in California.

4. Double Referral. The Senate Rules Committee has ordered a double-referral of AB 1423, first to the Senate Environmental Quality Committee which approved it 6-0, on June 28<sup>th</sup>, and second to the Senate Governance & Finance Committee.

### **Assembly Actions**

Assembly Environmental Safety and Toxic Materials Committee	7-2
Assembly Appropriations Committee	11-4
Assembly Floor Committee	64-9

### **Support and Opposition** (7/7/23)

Support: A Voice for Choice Advocacy  
 Active San Gabriel Valley  
 American College of Obstetricians and Gynecologists District IX  
 As You Sow  
 Ban Single Use Plastic (SUP)  
 Bay Area Jewish Earth Alliance  
 California Brain Tumor Association  
 California Product Stewardship Council  
 California Professional Firefighters  
 Clean Water Action  
 Cleaneearth4kids.org  
 Climate Reality Project, Los Angeles Chapter  
 Climate Reality Project, San Fernando Valley  
 East Bay Municipal Utility District  
 Environmental Working Group  
 Facts: Families Advocating for Chemical & Toxics Safety  
 Friends Committee on Legislation of California  
 Glendale Environmental Coalition  
 Hammond Climate Solutions Foundation  
 Interfaith Climate Action Network of Contra Costa County  
 Mamavation - Non-toxic Products for Healthy Families  
 Moms Advocating Sustainability  
 National Stewardship Action Council  
 Natural Resources Defense Council (NRDC)  
 Non Toxic Communities  
 North County Climate Change Alliance  
 Physicians for Social Responsibility - San Francisco Bay Area Chapter  
 Progressives for Democracy in America  
 Recolte Energy  
 Resource Renewal Institute

Safe Healthy Playing Fields, INC.  
San Francisco Baykeeper  
Save LA River Open Space  
Sd-sequel  
Sierra Club California  
Socal 350  
Studio City Residents Association  
Surfrider Foundation  
The River Project  
Urban Ecology Project  
West Berkeley Alliance for Clean Air and Safe Jobs  
3 Individuals

Opposition: Synthetic Turf Council

**-- END --**