
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

AB 1423 (Schiavo) - Product safety: PFAS: artificial turf or synthetic surfaces

Version: July 3, 2023

Urgency: No

Hearing Date: August 21, 2023

Policy Vote: E.Q. 6 - 0, GOV. & F. 7 - 0

Mandate: No

Consultant: Ashley Ames

Bill Summary: This bill would ban the installation of artificial turf containing specified levels of Perfluoroalkyl and polyfluoroalkyl substances (PFAS) at certain public and private institutions, including local schools, and would completely ban the manufacture, distribution, and sale of the same type of turf.

Fiscal Impact:

- Potential costs of an unknown amount (Proposition 98 General Fund) 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.
- Potential costs of an unknown but likely minor amount (General Fund) 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.
- The Department of Justice anticipates any costs would be minor and absorbable.

Background: 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.

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: This bill would prohibit 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 would begin on January 1, 2024, but would 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 would request but not require the University of California to comply with the installation prohibition that would commence January 1, 2024.

Commencing January 1, 2024, AB 1423 would also require 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 would define 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 would specify 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 would require manufacturers of “covered surfaces” to use the least toxic alternative when replacing PFAS in a “covered surface” and would require that those manufacturers conduct their analysis to determine the least toxic alternative in compliance with the requirements of the Green Chemistry Act.

The bill would repeal its prohibitions if DTSC adopts a regulatory response governing the activity covered by it. AB 1423 would also provide 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 would 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 would provide 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 would no longer be authorized to bring any action after new DTSC regulations become effective.

The bill would provide 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.

Related Legislation:

AB 727 (Weber) would prohibit, beginning January 1, 2026, 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 ppm, on January 1, 2027, a cleaning product that contains PFAS at or above 25 ppm, and on January 1, 2028, 10 ppm.

AB 246 (Papan) would prohibit, commencing January 1, 2025, a person from manufacturing, distributing, selling, or offering for sale in the state any menstrual products that contain intentionally added PFAS or, commencing January 1, 2027, concentrations of PFAS above 10 parts per million.

AB 347 (Ting) would require DTSC to enforce and ensure compliance with PFAS prohibitions and require DTSC to test at least 200 juvenile products and 200 food packaging samples by January 1, 2025. It would authorize DTSC to assess fines against manufacturers in violation of the PFAS prohibitions.

AB 1817 (Ting, Chapter 762, Statutes of 2022) prohibits, beginning January 1, 2024, a person from distributing, selling, or offering for sale in the state a textile article, as defined, that contains intentionally added PFAS, or starting January 1, 2025, any PFAS at concentrations of 100 ppm or more, or starting January 1, 2027, 50 ppm or more.

AB 2771 (Friedman, Chapter 804, Statutes of 2022) prohibits, commencing January 1, 2025, a person or entity from manufacturing, selling, delivering, holding, or offering for sale in commerce any cosmetic product that contains intentionally added PFAS.

AB 502 (Allen, Chapter 701, Statutes of 2022) makes a number of updates to California's Safer Consumer Products Program in line with perceived shortcomings from its first ten years with regards to the speed of the program to filling existing data gaps.

AB 1200 (Ting, Chapter 503, Statutes of 2021) prohibits, commencing January 1, 2023, the sale of food packaging, as defined, that contains intentionally added PFAS or PFAS at concentrations at or above 100 ppm. This bill also requires, starting January 1, 2024, certain labels for cookware products containing intentionally added chemicals from specified lists.

AB 652 (Freidman, Chapter 500, Statutes of 2021) prohibits, on or after July 1, 2023, a person from selling or distributing in commerce any new juvenile products that contain intentionally added PFAS or PFAS at or above 100 ppm.

AB 2762 (Muratsuchi, Chapter 314, Statutes of 2020) prohibits, commencing January 1, 2025, a person or entity from manufacturing, selling, delivering, holding, or offering for sale, in commerce any cosmetic product that contains any specified intentionally added ingredients, including some PFAS chemicals.

SB 1044 (Allen, Chapter 308, Statutes of 2020) prohibits the manufacture, sale, distribution, and use of firefighting foam containing intentionally added PFAS chemicals by January 1, 2022, with some exceptions, and requires notification of the presence of intentionally added PFAS in the protective equipment of firefighters.

AB 1319 (Butler, Chapter 467, Statutes of 2011) prohibits bisphenol A (BPA) above 0.1 parts per billion from bottles or cups designed to hold food or beverages for children 3 years of age or younger.

-- END --