

AMENDED IN ASSEMBLY APRIL 10, 2023

AMENDED IN ASSEMBLY MARCH 9, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 246

Introduced by Assembly Member Papan
(Coauthor: Assembly Member Schiavo)

January 17, 2023

An act to add Chapter 14.5 (commencing with Section 108985) to Part 3 of Division 104 of the Health and Safety Code, relating to product safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 246, as amended, Papan. Product safety: menstrual products: perfluoroalkyl and polyfluoroalkyl substances.

Existing law prohibits, beginning 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 perfluoroalkyl and polyfluoroalkyl substances (PFAS), as defined. Existing law similarly prohibits, beginning January 1, 2025, any person from manufacturing, distributing, selling, or offering for sale in the state any new, not previously owned, textile articles that contain regulated PFAS, except as specified, and requires a manufacturer to use the least toxic alternative when removing regulated PFAS in textile articles to comply with these provisions.

This bill would, beginning January 1, 2025, similarly prohibit any person from manufacturing, distributing, selling, or offering for sale in the state any menstrual products that contain regulated PFAS, and requires a manufacturer to use the least toxic alternative when removing

regulated PFAS in menstrual products to comply with these provisions. The bill would require a manufacturer of a menstrual product to provide persons that offer the product for sale or distribution in the state with a certificate of compliance stating that the menstrual product is in compliance with these provisions and does not contain any regulated PFAS.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Perfluoroalkyl and polyfluoroalkyl substances, or PFAS,
4 are persistent, toxic, and bioaccumulative substances with multiple
5 adverse effects on human health.

6 (2) PFAS are utilized in a broad range of products for their
7 water- and stain-resistant properties, including clothing and textiles,
8 despite the growing body of evidence that these materials may
9 leach into food, water supplies, and even the human body through
10 prolonged exposure.

11 (3) Adverse health impacts associated with PFAS include kidney
12 and liver damage, decreased immune system function, interference
13 with vaccine uptake, developmental and reproductive harm,
14 increased risk of asthma, and increased incidences of testicular
15 and kidney cancer for those with high exposure.

16 (4) Multiple alternatives to PFAS have been identified for water
17 resistance in menstrual products and textiles. For addressing stains,
18 soap and water work well for most situations, and alternative
19 materials and cleaning solutions offer additional options.

20 (b) Therefore, it is the intent of the Legislature, in enacting this
21 act, to phase out the use of PFAS in menstrual products.

22 SEC. 2. Chapter 14.5 (commencing with Section 108985) is
23 added to Part 3 of Division 104 of the Health and Safety Code, to
24 read:

25
26 CHAPTER 14.5. MENSTRUAL PRODUCTS

27
28 108985. For purposes of this chapter, the following terms have
29 the following definitions:

1 (a) “Manufacturer” has the same meaning as that term is defined
2 in Section 108952.

3 (b) “Menstrual product” means a product used to collect
4 menstruation and vaginal discharge, including, but not limited to,
5 tampons, pads, sponges, menstruation underwear, disks, and
6 menstrual cups, whether disposable or reusable.

7 (c) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS”
8 means a class of fluorinated organic chemicals containing at least
9 one fully fluorinated carbon atom.

10 (d) “Regulated perfluoroalkyl and polyfluoroalkyl substances
11 or PFAS” means ~~PFAS~~ *either of the following:*

12 (1) *PFAS* that a manufacturer has intentionally added to a
13 product and that have a functional or technical effect in the product,
14 including the PFAS components of intentionally added chemicals
15 and PFAS that are intentional breakdown products of an added
16 chemical that also have a functional or technical effect in the
17 product.

18 (2) *Commencing January 1, 2027, the presence of PFAS in a*
19 *product or product component at or above 10 parts per million,*
20 *as measured in total organic fluorine.*

21 108986. (a) Commencing January 1, 2025, no person shall
22 manufacture, distribute, sell, or offer for sale in the state any
23 menstrual products that contain regulated perfluoroalkyl and
24 polyfluoroalkyl substances or PFAS.

25 (b) A manufacturer shall use the least toxic alternative, including
26 alternative design, when removing regulated perfluoroalkyl and
27 polyfluoroalkyl substances or PFAS in menstrual products to
28 comply with this chapter.

29 (c) A manufacturer of a menstrual product shall provide persons
30 that offer the product for sale or distribution in the state with a
31 certificate of compliance stating that the menstrual product is in
32 compliance with the requirements of this chapter and does not
33 contain any regulated perfluoroalkyl and polyfluoroalkyl substances
34 or PFAS. A certificate of compliance provided pursuant to this
35 subdivision shall be signed by an authorized official of the
36 manufacturer. The certificate of compliance may be provided
37 electronically.

38 (d) A distributor or retailer of a menstrual product, if they are
39 not also the manufacturer of the product, shall not be held in
40 violation of this chapter if they relied in good faith on the certificate

1 of compliance provided by the manufacturer pursuant to
2 subdivision (c).

O