

# HOUSE BILL NO. 6536

November 30, 2022, Introduced by Rep. Rabhi and referred to the Committee on Natural Resources and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 14701 (MCL 324.14701), as added by 2020 PA 132, and by adding section 14707 to subpart 1 of part 147.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1           Sec. 14701. As used in this subpart:
- 2           (a) "Department" means the department of environment, Great
- 3           Lakes, and energy.
- 4           (b) "Consumer product" means any tangible personal property
- 5           that is distributed in commerce and is normally used for personal,

1 family, or household purposes, including any tangible personal  
2 property intended to be attached to or installed in any real  
3 property without regard to whether it is so attached or installed.  
4 Consumer product includes the packaging of a consumer product and  
5 food packaging. Consumer product does not include a food or  
6 beverage.

7 (c) ~~(b)~~—"Fire chief" means that term as defined in section 1  
8 of the fire prevention code, 1941 PA 207, MCL 29.1.

9 (d) "Food" means that term as defined in section 1107 of the  
10 food law, 2000 PA 92, MCL 289.1107.

11 (e) "Food packaging" means packaging or a packaging component  
12 that is intended for direct food contact.

13 (f) "Manufacturer" means an individual, firm, partnership,  
14 organization, joint venture, or corporation that does either of the  
15 following:

16 (i) Manufactures a consumer product.

17 (ii) Applies packaging or a packaging component to a consumer  
18 product for distribution or sale.

19 (g) ~~(e)~~—"Organized fire department" means that term as defined  
20 in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

21 (h) "Packaging" means a container or wrapper providing a means  
22 of marketing, protecting, or handling a consumer product, including  
23 unit packaging, intermediate packaging, or a shipping container.  
24 Packaging includes, but is not limited to, an unsealed receptacle,  
25 such as a carrying case, crate, cup, pail, rigid foil or other  
26 tray, wrapping film, bag, or tub.

27 (i) "Packaging component" means an individually assembled part  
28 of a packaging container or wrapper, including, but not limited to,  
29 any interior or exterior blocking, bracing, cushioning,

1 weatherproofing, exterior strapping, coatings, closure, inks, and  
2 labels.

3 (j) ~~(d)~~—"PFAS" means a perfluoroalkyl or polyfluoroalkyl  
4 substance. However, with respect to food packaging, PFAS means a  
5 class of fluorinated organic chemicals containing at least 1 fully  
6 fluorinated carbon atom.

7 (k) "Safer alternative" means an alternative substance that  
8 reduces hazard and exposure concerns and can be practicably and  
9 economically substituted for the original PFAS chemical.

10 Sec. 14707. (1) Subject to subsection (5), a person shall not  
11 knowingly manufacture, sell, offer for sale, distribute for sale in  
12 this state, or distribute for use in this state a consumer product  
13 to which PFAS has been intentionally added in any amount. This  
14 prohibition does not take effect unless both of the following  
15 occur:

16 (a) In compliance with subsection (2), the department  
17 determines that a safer alternative to PFAS, as it is used in the  
18 consumer product, is available.

19 (b) In compliance with subsection (4), the department reports  
20 its findings in support of the determination that a safer  
21 alternative is available.

22 (2) To determine whether safer alternatives to PFAS are  
23 available for use in a consumer product, the department shall  
24 conduct an alternatives assessment that does all of the following:

25 (a) Evaluates less toxic chemicals and nonchemical  
26 alternatives to replace the use of PFAS.

27 (b) Follows the "Interstate Chemicals Clearinghouse  
28 Alternatives Assessment Guide", version 1.1, published by the  
29 Interstate Chemicals Clearinghouse.

1 (c) Evaluates, at a minimum, chemical hazards, exposure,  
2 performance, cost, and availability.

3 (d) If the consumer product is food packaging, considers as  
4 possible safer alternatives only substances that have been approved  
5 for food contact by the United States Food and Drug Administration,  
6 such as through the issuance of a determination that the substances  
7 have a reasonable certainty of causing no harm.

8 (3) In conducting alternatives assessments under subsection  
9 (2), the department shall prioritize those consumer products most  
10 likely to result in PFAS exposure, such as food packaging and  
11 cosmetics.

12 (4) By January 1, 2024, the department shall provide to the  
13 legislature and make available to the public a report on its  
14 findings under subsection (2) and the results of a peer review of  
15 the alternatives assessments conducted under subsection (2).

16 (5) Both of the following apply to the effective date of the  
17 prohibition on the use of PFAS in subsection (1):

18 (a) If the report under subsection (4) finds that a safer  
19 alternative is available for a consumer product specified in the  
20 report, the prohibition takes effect January 1, 2025.

21 (b) If the report under subsection (4) does not find that a  
22 safer alternative is available for a consumer product, the  
23 prohibition does not take effect January 1, 2025 and subsection (6)  
24 applies.

25 (6) If the department does not find in the report required  
26 under subsection (3) that a safer alternative is available for a  
27 specific consumer product, by January 1, 2025, and each year  
28 thereafter, the department shall review and report to the  
29 legislature on alternatives to PFAS as they are used in the

1 consumer product, in the manner described in subsections (2) and  
2 (4). If a report submitted to the legislature under this subsection  
3 finds that a safer alternative is available, the prohibition in  
4 subsection (1) takes effect 2 years after the date of that report.

5 (7) A manufacturer shall submit to the department a  
6 certificate of compliance stating that the consumer product  
7 produced by the manufacturer complies with subsections (1) to (6).

8 All of the following apply:

9 (a) The certificate of compliance shall be on a form provided  
10 by the department.

11 (b) An authorized official of the manufacturer shall sign the  
12 certificate of compliance.

13 (c) The manufacturer shall submit the certificate of  
14 compliance by the effective date of any prohibition that results  
15 from the implementation of this section.

16 (d) The manufacturer shall keep a copy of the certificate of  
17 compliance on file for 3 years after the date of the last sale or  
18 distribution of the consumer product.

19 (e) If the manufacturer is required to provide a certificate  
20 of compliance under any other law of this state, the manufacturer  
21 may prepare a single certificate of compliance that contains the  
22 information required by that law and this section.

23 (f) If the manufacturer reformulates or alters the consumer  
24 product, the manufacturer shall submit an amended or new  
25 certificate of compliance for the reformulated or altered consumer  
26 product.