Proposed Legislation to Phase Out PFAS in Massachusetts

By Brian D. Gross

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More than a year after the Massachusetts PFAS Interagency Task Force recommended 30 steps to address PFAS contamination, Rep. Kate Hogan and Sen. Julian Cyr proposed an Act to Protect Massachusetts Public Health from PFAS, HD 3324 and SD 2053. The bill focuses on preventing new PFAS contamination and cleaning up PFAS contamination that already exists. Per- and poly-fluoroalkyl substances (PFAS) are man-made chemicals that have been used to make to make numerous industrial and consumer products that resist heat, oil, stains, grease and water. Certain PFAS are a concern because they do not break down in the human body or the environment.

The proposed legislation would result in one of the broadest PFAS bans in the nation, as it would ban the sale of firefighter protective gear, food packaging, children's products, cookware, rugs and carpets, upholstered furniture, personal care products, and fabric treatments with intentionally added PFAS chemicals beginning on January 1, 2026. That ban would extend to the sale of any products containing intentionally added PFAS by January 1, 2030. The bill would also require that, by 2026, manufacturers provide the Commonwealth with a list of all products and/or components sold, distributed or imported into Massachusetts that contain intentionally-added PFAS. Furthermore, manufacturers of certain consumer products would be required to test for the presence of unintentionally added PFAS starting in 2030.

While environmental groups have lauded the bill, a number of others have pointed out that the proposed legislation is overly broad, lacks sufficient scientific basis, and will have significant unintended negative consequences on nearly every sector of the Massachusetts economy, and deeply affect Massachusetts companies. One of the major issues with this bill is that it attempts to regulate the more than 10,000 distinct PFAS chemicals as one group. Industry groups point out that PFAS chemicals have distinct physical and chemical properties, and there is no scientific risk-based justification for regulating them as one group. In fact, regulating PFAS together as a single class is inconsistent with the views of key policy organizations, including the National Academies of Science, Engineering, and Medicine (NASEM), the Environmental Council of the States (ECOS), and various states that have specifically looked at the issue. For instance, though fluoropolymers technically fit the PFAS structural definition, they have very different physical, chemical, environmental and toxicological properties when compared with other PFAS—they have documented safety profiles; are thermally, biologically, and chemically stable, negligibly soluble in water, nonmobile, nonbioavailable, nonbioaccumulative, and nontoxic. As a result, they are of low concern from a human and environmental health standpoint. Moreover, they are vital for numerous products and currently have no substitute. Consequently, these chemicals should not be swept up in such a ban, according to industry groups.

In the coming weeks, the Legislature's Public Health Committee will hold a hearing on the proposed legislation. The date, time and location of the hearing will be announced at: https://malegislature.gov/Committees/Detail/J16/Hearings. Given the significant impact such legislation could have on the Massachusetts economy, it is critical for business owners and other stakeholders to monitor developments with this proposed legislation and others nationwide, as well as implement measures to reduce or eliminate their PFAS output.

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