Intersection of PFAS and Consumer Deception Further Highlighted by Texas Attorney General's Probe into Lululemon

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On April 13, 2026, Texas Attorney General Ken Paxton issued a Civil Investigative Demand to premium athletic apparel brand Lululemon to investigate its potential use of per- and polyfluoroalkyl substances (PFAS) in clothing. PFAS are a class of synthetical chemicals used in clothing, including activewear and various other products, due to their water- and stain-resistant qualities.

While states across the country have introduced or adopted legislation that restricts the use of PFAS in consumer products, no such regulations exist in Texas. Nonetheless, the Texas Attorney General's Office is taking a hard line on consumer deception and companies' alleged use of PFAS in consumer products marketed as healthy or sustainable. Specifically, the Texas Attorney General's Office inquiry as to Lululemon stems from the presumption that “health-conscious customers would not expect” PFAS-containing clothing based on Lululemon's brand strategy and marketing.

In addition to investigating whether Lululemon's athletic apparel contains PFAS, the Texas Attorney General's Office will also examine the company's Restricted Substances List, testing protocols, and supply chain practices to determine whether Lululemon allegedly misled consumers about the safety and quality of its products. Shortly after the Attorney General's Office announced its Civil Investigative Demand, Lululemon denied the use of PFAS in its apparel and further provided that PFAS were phased out of its water-repellant products in 2023.

The Texas Attorney General's Office Civil Investigative Demand signals an increase in enforcement actions, investigations, and litigation surrounding the use of PFAS in consumer products. Hence, it is imperative for manufacturers, suppliers, distributors, and others to appropriately analyze, evaluate and prepare for potential challenges, uncertainties and liabilities associated with PFAS consumer products. Pre-empting the situation and staying ahead of the curve may protect a company from, or quickly end, similar investigations surrounding alleged consumer deception and use of PFAS.

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