



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB5042

Introduced 2/8/2024, by Rep. Anna Moeller

#### SYNOPSIS AS INTRODUCED:

415 ILCS 170/5  
415 ILCS 170/10  
415 ILCS 170/15  
415 ILCS 170/45 new  
415 ILCS 170/50 new  
415 ILCS 170/55 new  
415 ILCS 170/60 new  
415 ILCS 170/65 new  
415 ILCS 170/70 new  
415 ILCS 170/75 new

Amends the PFAS Reduction Act. Requires, on or before January 1, 2026, a manufacturer of a product sold, offered for sale, or distributed in the State that contains intentionally added PFAS to submit to the Environmental Protection Agency specified information. Allows the Agency to waive the submission of information required by a manufacturer or extend the amount of time a manufacturer has to submit the required information. Provides that, if the Pollution Control Board has reason to believe that a product contains intentionally added PFAS and the product is being offered for sale in the State, the Board may direct the manufacturer of the product to provide the Board with testing results that demonstrate the amount of each of the PFAS in the product. Provides that, if testing demonstrates that the product does not contain intentionally added PFAS, the manufacturer must provide the Board with a certificate attesting that the product does not contain intentionally added PFAS. Restricts the sale of specified products beginning January 1, 2025 if the product contains intentionally added PFAS. Allows the Agency to establish a fee payable by a manufacturer to the Agency upon submission of the required information to cover the Agency's reasonable costs to implement the provisions. Allows the Agency to coordinate with the Board, the Department of Agriculture, and the Department of Public Health to enforce the provisions. Sets forth products that are exempt from the provisions.

LRB103 37420 JAG 67542 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The PFAS Reduction Act is amended by changing  
5 Sections 5, 10, and 15 and by adding Sections 45, 50, 55, 60,  
6 65, 70, and 75 as follows:

7 (415 ILCS 170/5)

8 Sec. 5. Definitions. In this Act, unless otherwise  
9 specified:

10 "Adult mattress" has the meaning given to that term in 16  
11 CFR 1632.1(a).

12 "Agency" means the Illinois Environmental Protection  
13 Agency.

14 "Air care product" means any consumer product, including,  
15 but not limited to, sprays, wicks, powders, and crystals,  
16 designed for the purpose of masking odors, or freshening,  
17 cleaning, scenting, or deodorizing the air. To determine  
18 whether a product is an air freshener, all verbal and visual  
19 representations regarding product use on the label or  
20 packaging and in the product's literature and advertising may  
21 be considered.

22 "Automotive maintenance product" means a chemically  
23 formulated consumer product labeled to indicate that the

1 purpose of the product is to maintain the appearance of a motor  
2 vehicle, including products for washing, waxing, polishing,  
3 cleaning, or treating the exterior or interior surfaces of a  
4 motor vehicle. "Automotive maintenance product" does not  
5 include automotive paint or paint repair products.

6 "Board" means the Pollution Control Board.

7 "Carpet or rug" means a fabric marketed or intended for  
8 use as a floor covering.

9 "Class B firefighting foam" means foam designed to  
10 extinguish flammable liquid fires or prevent the ignition of  
11 flammable liquids.

12 "Cleaning product" means a finished product used primarily  
13 for domestic, commercial, or institutional cleaning purposes,  
14 including, but not limited to, to an air care product,  
15 automotive maintenance product, general cleaning product, or  
16 polish or floor maintenance product.

17 "Cookware" means durable houseware items used to prepare,  
18 dispense, or store food, foodstuffs, or beverages. "Cookware"  
19 includes, but is not limited to, pots, pan, skillets, grills,  
20 baking sheets, baking molds, trays, bowls, and cooking  
21 utensils.

22 "Cosmetics" means articles, excluding soap:

23 (1) intended to be rubbed, poured, sprinkled, or  
24 sprayed on, introduced into, or otherwise applied to the  
25 human body or any part of the human body for the purpose of  
26 cleansing, beautifying, promoting attractiveness, or

1 altering the appearance; and

2 (2) intended for use as a component of any article.

3 "Currently unavoidable use" means a use of PFAS that the  
4 Board has determined by rule under this Act to be essential for  
5 health, safety, or the functioning of society and for which  
6 alternatives are not reasonably available.

7 "Fabric treatment" means a substance applied to fabric to  
8 give the fabric one or more characteristics, including, but  
9 not limited to, stain resistance or water resistance.

10 "Fire department" means the duly authorized fire  
11 protection organization of a unit of local government, a  
12 Regional Fire Protection Agency, a fire protection district,  
13 or a volunteer fire department.

14 "Food packaging" means a container applied to or providing  
15 a means to market, protect, handle, deliver, serve, contain,  
16 or store a food or beverage. "Food packaging" includes:

17 (1) a unit package, an intermediate package, and a  
18 shipping container;

19 (2) unsealed receptacles, such as carrying cases,  
20 crates, cups, plates, bowls, pails, rigid foil and other  
21 trays, wrappers and wrapping films, bags, and tubs; and

22 (3) an individually assembled part of a food package,  
23 such as any interior or exterior blocking, bracing,  
24 cushioning, weatherproofing, exterior strapping,  
25 coatings, closures, inks, and labels.

26 "Intentionally added" means PFAS deliberately added during

1 the manufacture of a product or reasonably anticipated to be  
2 present.

3 "Juvenile product" means a product designed or marketed  
4 for use by infants and children under 12 years of age.  
5 "Juvenile product" includes, but is not limited to, a baby or  
6 toddler foam pillow, bassinet, bedside sleeper, booster seat,  
7 changing pad, child restraint system for use in a motor  
8 vehicle and aircraft, co-sleeper, crib mattress, highchair,  
9 highchair pad, infant bouncer, infant carrier, infant seat,  
10 infant sleep positioner, infant swing, infant travel bed,  
11 infant walker, nap cot, nursing pad, nursing pillow, play mat,  
12 playpen, play yard, polyurethane foam mat, pad, or pillow,  
13 portable foam nap mat, portable infant sleeper, portable  
14 hook-on chair, soft-sided portable crib, stroller, and toddler  
15 mattress. "Juvenile product" does not include a children's  
16 electronic product, including a personal computer, audio and  
17 video equipment, calculator, wireless phone, game console,  
18 handheld device incorporating a video screen, or any  
19 associated peripheral, such as a mouse, keyboard, power supply  
20 unit, power cord, adult mattress, or an internal component of  
21 a product that would not come into direct contact with a  
22 child's skin or mouth during reasonably foreseeable use and  
23 abuse of the product.

24 "Local government" means a unit of local government or  
25 other special purpose district that provides firefighting  
26 services.

1           "Manufacturer" means the person that creates or produces a  
2 product or whose brand name is affixed to the product. In the  
3 case of a product imported into the United States,  
4 "manufacturer" includes the importer or first domestic  
5 distributor of the product if the person that manufactured or  
6 assembled the product or whose brand name is affixed to the  
7 product does not have a presence in the United States. ~~a person~~  
8 ~~that manufactures Class B firefighting foam and any agents of~~  
9 ~~that person, including an importer, distributor, authorized~~  
10 ~~servicer, factory branch, or distributor branch.~~

11           "Medical device" has the meaning given to the term  
12 "device" under subsection (h) of Section 321 of Title 21 of the  
13 United States Code.

14           "Menstrual product" means a product used to collect  
15 menstruation and vaginal discharge, including, but not limited  
16 to, tampons, pads, sponges, menstruation underwear, disks, and  
17 menstrual cups, whether disposable or reusable.

18           "Perfluoroalkyl substance or polyfluoroalkyl substance" or  
19 "PFAS" means a class of fluorinated organic chemicals  
20 containing at least one fully fluorinated carbon atom.

21           "Person" means any individual, partnership, association,  
22 public or private corporation, limited liability company, or  
23 any other type of legal or commercial entity, including, but  
24 not limited to, members, managers, partners, directors, or  
25 officers.

26           "Product" means an item manufactured, assembled, packaged,

1 or otherwise prepared for sale to consumers, including, but  
2 not limited to, its product components, sold or distributed  
3 for personal, residential, commercial, or industrial use,  
4 including for use in making other products.

5 "Product component" means an identifiable component of a  
6 product, regardless of whether the manufacturer of the product  
7 is the manufacturer of the component.

8 "Ski wax" means a lubricant applied to the bottom of snow  
9 runners, including, but not limited to, skis and snowboards,  
10 to improve their grip or glide properties. "Ski wax" includes  
11 related tuning products.

12 "Testing" means calibration testing, conformance testing,  
13 and fixed system testing.

14 "Textile" means an item made, in whole or in part, from a  
15 natural or synthetic fiber, yarn, or fabric. "Textile"  
16 includes, but is not limited to, leather, cotton, silk, jute,  
17 hemp, wool, viscose, nylon, and polyester.

18 "Textile furnishings" means textile goods of a type  
19 customarily used in households and buildings, including, but  
20 not limited to, draperies, floor coverings, furnishings,  
21 bedding, towels, and tablecloths.

22 "Upholstered furniture" means an article of furniture that  
23 is designed to be used for sitting, resting, or reclining and  
24 that is wholly or partly stuffed or filled with any filling  
25 material.

26 (Source: P.A. 102-290, eff. 8-6-21.)

1 (415 ILCS 170/10)

2 Sec. 10. Class B firefighting foam; PFAS.

3 (a) Beginning January 1, 2022, a person, local government,  
4 fire department, or State agency may not use for training or  
5 testing purposes a Class B firefighting foam containing  
6 intentionally added PFAS. However, the testing of Class B  
7 firefighting foam to which PFAS has been intentionally added  
8 may occur if the person, local government, fire department, or  
9 State agency has performed all of the following:

10 (1) Evaluate the testing facility for containment,  
11 treatment, and disposal measures to prevent uncontrolled  
12 release of Class B firefighting foam to the environment.  
13 Appropriate containment, treatment, and disposal or  
14 storage measures may not include flushing, draining, or  
15 otherwise discharging the foam into a storm drain or  
16 sanitary sewer.

17 (2) Comply with the notification requirements provided  
18 in Section 15.

19 (3) Provide training to employees of the possible  
20 hazards, protective actions, and a disposal plan.

21 (b) On and after January 1, 2025, a manufacturer of Class B  
22 firefighting foam may not knowingly manufacture, sell, offer  
23 for sale, distribute for sale, or distribute for use in this  
24 State a Class B firefighting foam containing intentionally  
25 added PFAS. Any person who operates a refinery or chemical or



1 ethanol plant, a storage and distribution facility, or a tank  
2 farm or terminal for flammable liquids, or who has a fixed foam  
3 system in use at a manufacturing facility or warehouse, may  
4 extend the date of compliance under this subsection to January  
5 1, 2027 if, prior to January 1, 2025, the person determines  
6 that additional time for compliance is needed and sends notice  
7 of the determination to the Office of the State Fire Marshal.

8 (c) The prohibitions of this Section do not apply to the  
9 manufacture, sale, or distribution of Class B firefighting  
10 foam where the inclusion of PFAS chemicals is required or  
11 authorized under federal law or local building or fire codes,  
12 including, but not limited to, 14 CFR 139.317, federal  
13 aviation administration guidance, and the 2016 edition of NFPA  
14 409 Standard on Aircraft Hangars as amended, or otherwise  
15 required for a military purpose. However, if applicable  
16 federal law allows the use of alternative firefighting agents  
17 that do not contain PFAS chemicals, the restrictions under  
18 this Section shall apply.

19 (d) The prohibitions of this Section do not apply to the  
20 use of Class B firefighting foam containing PFAS chemicals by  
21 a fire department while responding to an emergency situation.

22 (e) On and after January 1, 2022, a manufacturer of Class B  
23 firefighting foam must provide notification to the fire  
24 department prior to the fire department's purchase of Class B  
25 firefighting foam containing PFAS clearly indicating:

26 (1) that the product contains PFAS that may be

1 hazardous to health or the environment;

2 (2) the use of the product is regulated and restricted  
3 under this Act; and

4 (3) other Class B firefighting foam options may be  
5 available for purchase.

6 (f) As used in this Section, "manufacturer" means a person  
7 that manufactures Class B firefighting foam and any agents of  
8 that person, including an importer, distributor, authorized  
9 servicer, factory branch, or distributor branch.

10 (Source: P.A. 102-290, eff. 8-6-21.)

11 (415 ILCS 170/15)

12 Sec. 15. Notification.

13 (a) On and after 30 days after the effective date of this  
14 Act, a manufacturer of Class B firefighting foam that is  
15 regulated under this Act must notify, in writing, a person  
16 that sells the manufacturer's Class B firefighting foam in  
17 this State of the provisions of this Act.

18 (b) Beginning on January 1, 2022, any person, unit of  
19 local government, fire department, or State agency that  
20 discharges or releases Class B firefighting foam that contains  
21 intentionally added PFAS chemicals must notify the Illinois  
22 Emergency Management Agency within 48 hours of the discharge  
23 or release. The notification must include:

24 (1) the time, date, location, and estimated amount of  
25 Class B firefighting foam discharged or released into the

1 environment;

2 (2) the purpose or reason of the discharge or release  
3 into the environment;

4 (3) the containment, treatment, and disposal measures  
5 to be taken or used to prevent or minimize the discharge or  
6 release of the Class B firefighting foam into the  
7 environment; and

8 (4) the name of the person, unit of local government,  
9 fire department, or State agency, the local incident  
10 number, and the Fire Department Identification (FDID)  
11 number, if applicable.

12 (c) The Illinois Emergency Management Agency shall, no  
13 less than annually, report any notifications specified in  
14 subsection (b) to the Office of the State Fire Marshal.

15 (d) As used in this Section, "manufacturer" means a person  
16 that manufactures Class B firefighting foam and any agents of  
17 that person, including an importer, distributor, authorized  
18 servicer, factory branch, or distributor branch.

19 (Source: P.A. 102-290, eff. 8-6-21.)

20 (415 ILCS 170/45 new)

21 Sec. 45. Information requirement.

22 (a) On or before January 1, 2026, a manufacturer of a  
23 product sold, offered for sale, or distributed in the State  
24 that contains intentionally added PFAS must submit to the  
25 Agency information that includes:

1           (1) a brief description of the product, including a  
2           universal product code (UPC), stock keeping unit (SKU), or  
3           other numeric code assigned to the product;

4           (2) the purpose for which PFAS are used in the  
5           product, including in any product components;

6           (3) the amount of each PFAS, identified by its  
7           chemical abstracts service registry number, in the  
8           product, reported as an exact quantity determined using  
9           commercially available analytical methods or as falling  
10           within a range approved for reporting purposes by the  
11           Board;

12           (4) the name and address of the manufacturer and the  
13           name, address, and phone number of a contact person for  
14           the manufacturer; and

15           (5) any additional information requested by the agency  
16           as necessary to implement the requirements of this  
17           Section.

18           (b) With the approval of the Agency, a manufacturer may  
19           supply the information required in subsection (a) for a  
20           category or type of product rather than for each individual  
21           product.

22           (c) A manufacturer must submit the information required  
23           under this Section whenever a new product that contains  
24           intentionally added PFAS is sold, offered for sale, or  
25           distributed in the State and update and revise the information  
26           whenever there is a significant change in the information or

1 when requested to do so by the Agency.

2 (d) A person may not sell, offer for sale, or distribute  
3 for sale in the State a product containing intentionally added  
4 PFAS if the manufacturer has failed to provide the information  
5 required under this Section and the person has received  
6 notification under Section 50.

7 (415 ILCS 170/50 new)

8 Sec. 50. Information requirement waivers and extensions.

9 (a) The Agency may waive all or part of the information  
10 requirement under Section 45 if the Agency determines that  
11 substantially equivalent information is already publicly  
12 available. The Agency may grant a waiver under this subsection  
13 to a manufacturer or a group of manufacturers for multiple  
14 products or a product category.

15 (b) The Agency may enter into an agreement with one or more  
16 states or political subdivisions of a state to collect  
17 information and may accept information to a shared system as  
18 meeting the information requirement under Section 45.

19 (c) The Agency may extend the deadline for submission by a  
20 manufacturer of the information required under Section 45 if  
21 the Agency determines that more time is needed by the  
22 manufacturer to comply with the submission requirement.

23 (415 ILCS 170/55 new)

24 Sec. 55. Testing required; certificate of compliance.

1       (a) If the Board has reason to believe that a product  
2       contains intentionally added PFAS and the product is being  
3       offered for sale in the State, the Board may direct the  
4       manufacturer of the product to, within 30 days, provide the  
5       Board with testing results that demonstrate the amount of each  
6       of the PFAS, identified by its chemical abstracts service  
7       registry number, in the product, reported as an exact quantity  
8       determined using commercially available analytical methods or  
9       as falling within a range approved for reporting purposes by  
10       the Board.

11       (b) If testing demonstrates that the product does not  
12       contain intentionally added PFAS, the manufacturer must  
13       provide the Board with a certificate attesting that the  
14       product does not contain intentionally added PFAS, including  
15       testing results and any other relevant information.

16       (c) If testing demonstrates that the product contains  
17       intentionally added PFAS, the manufacturer must provide the  
18       Board with the testing results and the information required  
19       under Section 45.

20       (d) A manufacturer must notify a person who sells or  
21       offers for sale the manufacturer's product prohibited under  
22       Section 45 or 60 that the sale of the product is prohibited in  
23       this State and provide the Board with a list of the names and  
24       addresses of those notified.

25       (e) The Board may notify a person who sells or offers for  
26       sale a product prohibited under Section 60 that the sale of

1 that product is prohibited in this State.

2 (415 ILCS 170/60 new)

3 Sec. 60. Prohibitions.

4 (a) Beginning January 1, 2025, a person may not sell,  
5 offer for sale, or distribute for sale in this State the  
6 following products if the product contains intentionally added  
7 PFAS:

8 (1) carpets or rugs;

9 (2) cleaning products;

10 (3) cookware;

11 (4) cosmetics;

12 (5) dental floss;

13 (6) fabric treatments;

14 (7) juvenile products;

15 (8) menstrual products;

16 (9) intimate apparel;

17 (10) textile furnishings;

18 (11) ski wax;

19 (12) upholstered furniture;

20 (13) food packaging; or

21 (14) compostable products.

22 (b) The Board may, by rule, identify additional products  
23 by category or use that may not be sold, offered for sale, or  
24 distributed for sale in this State if they contain  
25 intentionally added PFAS and designate effective dates for the

1 prohibitions. A prohibition adopted under this subsection must  
2 be effective no earlier than January 1, 2025, and no later than  
3 January 1, 2032. The Board must prioritize the prohibition of  
4 the sale of product categories that, in the Board's judgment,  
5 are most likely to contaminate or harm the State's environment  
6 and natural resources if they contain intentionally added  
7 PFAS.

8 (c) Beginning January 1, 2032, a person may not sell,  
9 offer for sale, or distribute for sale in this State any  
10 product that contains intentionally added PFAS, unless the  
11 Board has determined, by rule, that the use of the PFAS in the  
12 product is currently unavoidable. The Board may specify  
13 specific products or product categories for which the Board  
14 has determined the use of PFAS is a currently unavoidable use.  
15 The Board may not determine that the use of PFAS in a product  
16 is a currently unavoidable use if the product is listed in  
17 subsection (a).

18 (d) The Board may not take action under subsection (b) or  
19 (c) with respect to a pesticide, fertilizer, agricultural  
20 liming material, plant amendment, or soil amendment unless the  
21 Department of Agriculture approves the action.

22 (415 ILCS 170/65 new)

23 Sec. 65. Fees. The Agency may establish, by rule, a fee  
24 payable by a manufacturer to the Agency upon submission of the  
25 information required under Section 45 to cover the Agency's



1 reasonable costs to implement Section 45. Fees collected under  
2 this Section must be deposited into an account in the  
3 Environmental Protection Trust Fund.

4 (415 ILCS 170/70 new)

5 Sec. 70. Enforcement.

6 (a) The Agency may coordinate with the Board, the  
7 Department of Agriculture, and the Department of Public Health  
8 in enforcing this amendatory Act of the 103rd General  
9 Assembly.

10 (b) When requested by the Agency, a person must furnish to  
11 the Agency any information that the person may have or may  
12 reasonably obtain that is relevant to show compliance with  
13 this amendatory Act of the 103rd General Assembly.

14 (415 ILCS 170/75 new)

15 Sec. 75. Exemptions.

16 (a) The changes to this Act by this amendatory Act of the  
17 103rd General Assembly do not apply to:

18 (1) a product for which federal law governs the  
19 presence of PFAS in the product in a manner that preempts  
20 State authority;

21 (2) a product regulated under Sections 10 through 40;  
22 or

23 (3) the sale or resale of a used product.

24 (b) Sections 55 and 60 do not apply to a prosthetic or

1 orthotic device or to any product that is a medical device or  
2 drug or that is otherwise used in a medical setting or in  
3 medical applications regulated by the United States Food and  
4 Drug administration.