

2024 -- S 2850 SUBSTITUTE B

LC005790/SUB B

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO HEALTH AND SAFETY -- TOXIC PACKAGING REDUCTION ACT

Introduced By: Senators Valverde, Murray, LaMountain, Kallman, Britto, Gu, DiMario,
and Miller

Date Introduced: March 22, 2024

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-18.13-3 and 23-18.13-4 of the General Laws in Chapter 23-18.13
2 entitled "Toxic Packaging Reduction Act" are hereby amended to read as follows:

3 **23-18.13-3. Definitions.**

4 (1) "Department" means the department of environmental management.

5 (2) "Distribution" means the practice of taking title to a package(s) or packaging
6 component(s) for promotional purposes or resale. Persons involved solely in delivering a
7 package(s) or packaging component(s) on behalf of third parties are not considered distributors.

8 (3) "Distributor" means any person, firm, or corporation who or that takes title to goods
9 purchased for resale.

10 (4) "Food packaging" means any package or packaging component that is applied to or in
11 direct contact with any food or beverage.

12 (5) "Incidental presence" means the presence of a regulated metal as an unintended or
13 undesired ingredient of a package or packaging component.

14 (6)(i) "Intentional introduction of PFAS" means deliberately utilizing PFAS in the
15 formulation of a package or packaging component where its continued presence is desired in the
16 final package or packaging component to provide a specific characteristic, appearance, or quality.

17 (ii) ~~The~~ On or after July 1, 2027, the use of a regulated chemical as a processing agent,
18 mold release agent, or intermediate ~~is~~ shall be considered intentional introduction for the purposes
19 of this chapter where the regulated chemical is detected in the final package or packaging

1 component.

2 (iii) *[Expires July 1, 2027.]* The use of post-consumer recycled materials as feedstock for
3 the manufacture of new packaging materials, where some portion of the post-consumer package or
4 packaging component may contain amounts of the regulated chemicals but is neither desired nor
5 deliberate, is not considered intentional introduction for the purposes of this chapter where said
6 final package or packaging component is in compliance with § 23-18.13-4(d). (The provisions of
7 subsection (6)(iii) of this section shall sunset on July 1, 2027).

8 (7)(i) “Intentional introduction of regulated materials” means the act of deliberately
9 utilizing a regulated metal in the formation of a package or packaging component where its
10 continued presence is desired in the final package or packaging component to provide a specific
11 characteristic, appearance, or quality.

12 (ii) The use of a regulated metal as a processing agent or intermediate to impart certain
13 chemical or physical changes during manufacturing, whereupon the incidental retention of a residue
14 of a regulated metal in the final package or packaging component is neither desired nor deliberate,
15 is not considered intentional introduction for the purposes of this chapter where the final package
16 or packaging component is in compliance with § 23-18.13-4(c).

17 (iii) The use of post-consumer recycled materials as feedstock for the manufacture of new
18 packaging materials where some portion of the recycled materials may contain amounts of the
19 regulated metals is not considered intentional introduction for the purposes of this chapter where
20 the new package or packaging component is in compliance with § 23-18.13-4(c).

21 (8) “Manufacturer” means any person, firm, association, partnership, or corporation who
22 sells, offers for sale, or offers for promotional purposes packages or packaging components which
23 shall be used by any other person, firm, association, partnership, or corporation to package a
24 product(s).

25 (9) “Manufacturing” means physical or chemical modification of a material(s) to produce
26 packaging or packaging components.

27 (10) “Package” means a container providing a means of marketing, protecting or handling
28 a product and shall include a unit package, an intermediate package and a shipping container as
29 defined in ASTM D996. “Package” also means and includes such unsealed receptacles as carrying
30 cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs.

31 (11) “Packaging component” means any individual assembled part of a package including,
32 but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior
33 strapping, coatings, closures, inks and labels. Tin-plated steel that meets the American Society for
34 Testing and Materials (ASTM) specification A-623 is considered a single package component.

1 Electro-galvanized coated steel and hot-dipped coated galvanized steel that meets the ASTM
2 specifications A-525 and A-879 shall be treated in the same manner as tin-plated steel.

3 (12) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means all members of the
4 class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

5 (13) “Post-consumer recycled material” means a material generated by households or by
6 commercial, industrial, and institutional facilities in their role as end-users of the product that can
7 no longer be used for its intended purpose, including returns of material from the distribution chain.
8 Refuse-derived fuel or other material that is destroyed by incineration is not a recycled material.

9 (14) “Substitute material” means a material used to replace lead, cadmium, mercury,
10 hexavalent chromium, PFAS, or other regulated chemical in a package or packaging component.

11 **23-18.13-4. Prohibition — Schedule for removal of incidental amounts.**

12 (a) No package or packaging component shall be offered for sale or for promotional
13 purposes by its manufacturer or distributor in the state, which includes, in the package itself or in
14 any packaging component, inks, dyes, pigments, adhesives, stabilizers, or any other additives, any
15 lead, cadmium, mercury, or hexavalent chromium that has been intentionally introduced as an
16 element during manufacturing or distribution as opposed to the incidental presence of any of these
17 elements.

18 (b) No product shall be offered for sale or for promotional purposes by its manufacturer or
19 distributor in the state in a package which includes, in the package itself or in any of its packaging
20 components, inks, dyes, pigments, adhesives, stabilizers, or any other additives, any lead, cadmium,
21 mercury, or hexavalent chromium that has been intentionally introduced as an element during
22 manufacturing or distribution as opposed to the incidental presence of any of these elements.

23 (c) The sum on the concentration levels of lead, cadmium, mercury, and hexavalent
24 chromium present in any package or packaging component shall not exceed 100 parts per million
25 by weight (0.01%).

26 (d) Effective ~~July 31, 2024~~ [January 1, 2025](#), no food package to which PFAS have been
27 intentionally introduced during manufacturing or distribution in any amount shall be offered for
28 sale or for promotional purposes by its manufacturer or distributor in the state.

29 (e) No substitute material used to replace a chemical regulated by this chapter in a package
30 or packaging component may be used in a quantity or manner that creates a hazard as great as or
31 greater than the hazard created by the chemical regulated by this act. The certificate of compliance
32 required by § 23-18.13-6 shall require an assurance to this effect.

33 (f) **Interstate clearinghouse.** The department is authorized to participate in the
34 establishment and implementation of a regional or national, multi-state clearinghouse to assist in

1 carrying out the requirements of this chapter and to help coordinate reviews of the regulatory
2 applicability, certificates of compliance, education and outreach activities, and any other related
3 functions. The clearinghouse may also maintain reports on the effectiveness of the program,
4 certificates of analysis and compliance for product packaging.

5 **SECTION 2. This act shall take effect upon passage.**

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- TOXIC PACKAGING REDUCTION ACT

- 1 This act updates the existing Toxic Packaging Act by delaying the ban on PFAS in food
- 2 packaging until January 1, 2025, and in processing agents until July 1, 2027.
- 3 This act would take effect upon passage.

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