

2022 -- S 2044 SUBSTITUTE A

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO HEALTH AND SAFETY -- TOXIC PACKAGING REDUCTION ACT

Introduced By: Senators Seveney, DiPalma, Euer, DiMario, Cano, Kallman, Coyne,
Miller, Pearson, and McCaffrey

Date Introduced: January 25, 2022

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

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

3 **23-18.13-2. Findings.**

4 The general assembly has found and declares that:

5 (1) The management of solid waste can pose a wide range of hazards to public health and
6 safety and to the environment;

7 (2) Packaging comprises a significant percentage of the overall solid waste stream;

8 (3) The presence of heavy metals and both perfluoroalkyl and polyfluoroalkyl substances
9 (PFAS) in packaging is a part of the total concern in light of their likely presence in emissions or
10 ash when packaging is incinerated, or in leachate when packaging is landfilled;

11 (4) Lead, mercury, cadmium, ~~and~~ hexavalent chromium, and PFAS, on the basis of
12 available scientific and medical evidence, are of particular concern;

13 (5) It is desirable as a first step in reducing the toxicity of packaging waste to eliminate the
14 addition of these heavy metals and PFAS to packaging; and

15 (6) The intent of this chapter is to achieve this reduction in toxicity without impeding or
16 discouraging the expanded use of post-consumer materials in the production of packaging and its
17 components.

18 **23-18.13-3. Definitions.**

19 (a) "Department" means the department of environmental management.

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

4 (c) "Distributor" means any person, firm or corporation who takes title to goods purchased
5 for resale.

6 (d) "Food packaging" means any package or packaging component that is applied to or in
7 direct contact with any food or beverage.

8 ~~(d)~~(e) "Incidental presence" means the presence of a regulated metal as an unintended or
9 undesired ingredient of a package or packaging component.

10 ~~(e)~~(f)(1) "Intentional introduction of regulated materials" means the act of deliberately
11 utilizing a regulated metal in the formation of a package or packaging component where its
12 continued presence is desired in the final package or packaging component to provide a specific
13 characteristic, appearance, or quality.

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

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

23 (g)(1) "Intentional introduction of PFAS" means deliberately utilizing PFAS in the
24 formulation of a package or packaging component where its continued presence is desired in the
25 final package or packaging component to provide a specific characteristic, appearance, or quality.

26 (2) The use of a regulated chemical as a processing agent, mold release agent or
27 intermediate is considered intentional introduction for the purposes of this chapter where the
28 regulated chemical is detected in the final package or packaging component.

29 (3) The use of post-consumer recycled materials as feedstock for the manufacture of new
30 packaging materials, where some portion of the post-consumer package or packaging component
31 may contain amounts of the regulated chemicals but is neither desired nor deliberate, is not
32 considered intentional introduction for the purposes of this chapter where said final package or
33 packaging component is in compliance with § 23-18.13-4(d). (The provisions of § 23-18.13-
34 3(g)(3), shall sunset on July 1, 2027).

1 ~~(e)~~(h) "Manufacturer" means any person, firm, association, partnership, or corporation who
2 sells, offers for sale, or offers for promotional purposes packages or packaging components which
3 shall be used by any other person, firm, association, partnership, or corporation to package a
4 product(s).

5 ~~(e)~~(i) "Manufacturing" means physical or chemical modification of a material(s) to produce
6 packaging or packaging components.

7 ~~(h)~~(j) "Package" means a container providing a means of marketing, protecting or handling
8 a product and shall include a unit package, an intermediate package and a shipping container as
9 defined in ASTM D996. "Package" also means and includes such unsealed receptacles as carrying
10 cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs.

11 ~~(h)~~(k) "Packaging component" means any individual assembled part of a package including,
12 but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior
13 strapping, coatings, closures, inks and labels. Tin-plated steel that meets the American Society for
14 Testing and Materials (ASTM) specification A-623 is considered a single package component.
15 Electro-galvanized coated steel and hot-dipped coated galvanized steel that meets the ASTM
16 specifications A-525 and A-879 shall be treated in the same manner as tin-plated steel.

17 (l) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means all members of the
18 class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

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

23 (n) "Substitute material" means a material used to replace lead, cadmium, mercury,
24 hexavalent chromium, PFAS or other regulated chemical in a package or packaging component.

25 **23-18.13-4. Prohibition/Schedule for removal of incidental amounts.**

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

32 (b) No product shall be offered for sale or for promotional purposes by its manufacturer or
33 distributor in the state in a package which includes, in the package itself or in any of its packaging
34 components, inks, dyes, pigments, adhesives, stabilizers, or any other additives, any lead, cadmium,

1 mercury or hexavalent chromium which has been intentionally introduced as an element during
2 manufacturing or distribution as opposed to the incidental presence of any of these elements.

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

6 (d) Effective January 1, 2024, no food package to which PFAS have been intentionally
7 introduced during manufacturing or distribution in any amount shall be offered for sale or for
8 promotional purposes by its manufacturer or distributor in the state.

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

13 (f) Interstate clearinghouse. The department is authorized to participate in the
14 establishment and implementation of a regional or national, multi-state clearinghouse to assist in
15 carrying out the requirements of this chapter and to help coordinate reviews of the regulatory
16 applicability, certificates of compliance, education and outreach activities, and any other related
17 functions. The clearinghouse may also maintain reports on the effectiveness of the program,
18 certificates of analysis and compliance for product packaging.

19 SECTION 2. Chapter 23-18.13 of the General Laws entitled "Toxic Packaging Reduction
20 Act" is hereby amended by adding thereto the following section:

21 **23-18.13-13. Sunset.**

22 The provisions of § 23-18.13-3(g)(3) shall sunset on July 1, 2027.

23 SECTION 3. 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 would prohibit the sale or promotional distribution of any food package in Rhode
2 Island which contains perfluoroalkyl and polyfluoroalkyl substances (PFAS), effective January 1,
3 2024 and furthermore, the the provisions of § 23-18.13-3(g)(3) regarding the use of post-consumer
4 recycled materials as feedstock for new packaging materials would sunset on July 1, 2027.

5 This act would take effect upon passage.

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