



General Assembly

January Session, 2021

Raised Bill No. 926

LCO No. 3303



Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

***AN ACT CONCERNING THE PRESENCE OF PFAS IN CERTAIN
CONSUMER PACKAGING.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-255h of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2021*):

3 As used in sections 22a-255g to 22a-255m, inclusive, as amended by
4 this act:

5 (1) "Package" means any container, produced either domestically or
6 in a foreign country, used for the marketing, protecting or handling of a
7 product and includes a unit package, an intermediate package and a
8 shipping container, as defined in the American Society of Testing and
9 Materials specification D966. "Package" also means any unsealed
10 receptacle such as a carrying case, crate, cup, pail, rigid foil or other tray,
11 wrapper or wrapping film, bag or tub.

12 (2) "Distributor" means any person who takes title or delivery from
13 the manufacturer of a package, packaging component or product,
14 produced either domestically or in a foreign country, to use for

15 promotional purposes or to sell.

16 (3) "Packaging component" means any part of a package, produced
17 either domestically or in a foreign country, including, but not limited to,
18 any interior or exterior blocking, bracing, cushioning, weatherproofing,
19 exterior strapping, coating, closure, ink, label, dye, pigment, adhesive,
20 stabilizer or other additive. Tin-plated steel that meets specification
21 A623 of the American Society of Testing and Materials shall be
22 considered as a single packaging component. Electro-galvanized coated
23 steel and hot dipped coated galvanized steel that meets the American
24 Society of Testing and Materials specifications A653, A924, A879 and
25 A591 shall be treated in the same manner as tin-plated steel.

26 (4) "Commissioner" means the Commissioner of Energy and
27 Environmental Protection or an authorized agent or designee of the
28 commissioner.

29 (5) "Department" means the Department of Energy and
30 Environmental Protection.

31 (6) "Intermediate package" means a wrap, box, or bundle which
32 contains two or more unit packages of identical items.

33 (7) "Unit package" means the first tie, wrap, or container applied to a
34 single item, a quantity of the same item, a set, or an item with all its
35 component parts, which constitutes a complete and identifiable package
36 containing the unit of issue of a product for ultimate use.

37 (8) "Shipping container" means a container which is sufficiently
38 strong to be used in commerce for packing, storing and shipping
39 commodities.

40 (9) "Container" means a receptacle capable of closure.

41 (10) "Intentionally introduced" means deliberately utilized regulated
42 metal, PFAS or other regulated chemical in the formulation of a package
43 or packaging component where the continued presence of such metal or
44 chemical is desired in the final package or packaging component to

45 provide a specific characteristic, appearance or quality. The use of a
46 regulated metal or regulated chemical as a processing agent or
47 intermediate to impart certain chemical or physical changes during
48 manufacturing where the incidental retention of a residue of said metal
49 in the final package or packaging component is neither desired nor
50 deliberate shall not be considered intentional introduction for the
51 purposes of this section where such package or component is in
52 compliance with subsection (c) of section 22a-255i, as amended by this
53 act. The use of a regulated chemical as a processing agent, mold release
54 agent or intermediate is considered intentional introduction for the
55 purposes of this section where the regulated chemical is detected in the
56 final package or packaging component. The use of post-consumer
57 recycled materials as feedstock for the manufacture of new packaging
58 materials where some portion of the recycled materials may contain
59 amounts of the regulated metals or regulated chemicals shall not be
60 considered intentional introduction for the purposes of this section
61 provided the new package or packaging component is in compliance
62 with subsection (c) or (e) of section 22a-255i, as amended by this act, as
63 applicable.

64 (11) "Distribution" means the process for transferring a package or
65 packaging component for promotional purposes or resale. Persons
66 involved solely in delivering a package or packaging component on
67 behalf of third parties shall not be considered distributors.

68 (12) "Manufacturer" means any person producing a package or
69 packaging component as defined in subdivision (3) of this section.

70 (13) "Manufacturing" means the physical or chemical modification of
71 a material to produce packaging or packaging components.

72 (14) "Supplier" means any person, firm, association, partnership or
73 corporation which sells, offers for sale or offers for promotional
74 purposes packages or packaging components which will be used by any
75 other person to package a product.

76 (15) "Alternative" means a substitute process, product, material,

77 chemical, strategy or any combination thereof, that serves a functionally
78 equivalent purpose to another chemical in a package or packaging
79 component.

80 (16) "Chemical" means a substance with a distinct molecular
81 composition or a group of structurally related substances and includes
82 the breakdown products of the substance that form through
83 decomposition, degradation or metabolism of such substance.

84 (17) "Credible scientific evidence" means the results of a study, the
85 experimental design and conduct of which have undergone
86 independent scientific peer review, that are published in a peer-
87 reviewed journal or in a publication of an authoritative federal or
88 international governmental agency, including, but not limited to, the
89 United States Department of Health and Human Services' National
90 Toxicology Program, the Food and Drug Administration, the Centers
91 for Disease Control and Prevention, the United States Environmental
92 Protection Agency, the World Health Organization and the European
93 Union's European Chemicals Agency.

94 (18) "Incidental presence" means the presence of a regulated metal or
95 other regulated chemical as an unintended or undesired ingredient of a
96 package or packaging component.

97 (19) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means
98 all members of the class of fluorinated organic chemicals containing at
99 least one fully fluorinated carbon atom.

100 (20) "Persistent, Bioaccumulative and Toxic" or "PBT" substances and
101 "very Persistent and very Bioaccumulative" or "vPvB" substances mean
102 substances meeting the criteria established in Section 1 of Annex XIII to
103 the Registration, Evaluation, Authorisation and Restriction of
104 Chemicals (REACH) Regulation of the European Union (EC) No
105 1907/2006 of the European Parliament and of the Council of 18
106 December 2006, as amended.

107 (21) "Persistent, Mobile and Toxic" or "PMT" substances and "very

108 Persistent and very Mobile" or "vPvM" substances mean substances
109 meeting the criteria established in "REACH: Improvement of guidance
110 and methods for the identification and assessment of PMT/vPvM
111 substances: Final Report." TEXTE 126/2019. Environmental Research of
112 the Federal Ministry for the Environment, Nature Conservation and
113 Nuclear Safety. Project No. (FKZ) 3716 67 416 0, Report No.
114 FB000142/ENG. November 2019.

115 (22) "Post-consumer recycled material" means a material generated
116 by households or by commercial, industrial and institutional facilities as
117 end-users of the product which can no longer be used for its intended
118 purpose, including returns of material from the distribution chain.
119 "Post-consumer recycled material" does not include refuse-derived fuel
120 or other material that is destroyed by incineration.

121 (23) "Recycling" means the process of collecting and preparing
122 recyclable materials and reusing the materials in their original form or
123 using them in manufacturing processes that do not cause the destruction
124 of recyclable materials in a manner that precludes further use.

125 (24) "Substitute material" means a material used to replace lead,
126 cadmium, mercury, or hexavalent chromium, PFAS or other regulated
127 chemicals in a package or packaging component.

128 (25) "Toxic chemical" is a chemical listed as a packaging chemical of
129 high concern pursuant to section 22a-255m, as amended by this act.

130 Sec. 2. Section 22a-255i of the general statutes is repealed and the
131 following is substituted in lieu thereof (*Effective July 1, 2021*):

132 (a) As soon as feasible, but not later than October 1, 1992, no package
133 or packaging component shall be offered for sale or promotional
134 purposes in this state, by its manufacturer or distributor, if it is
135 composed of any lead, cadmium, mercury or hexavalent chromium
136 which has been intentionally introduced during manufacturing or
137 distribution, as opposed to the incidental presence of any of these
138 substances.

139 (b) As soon as feasible, but not later than October 1, 1992, no product
140 shall be offered for sale or promotional purposes, in this state by its
141 manufacturer or distributor, in a package which is composed of any
142 lead, cadmium, mercury or hexavalent chromium which has been
143 intentionally introduced during manufacturing or distribution, as
144 opposed to the incidental presence of any of these substances.

145 (c) No package or packaging component shall be offered for sale or
146 promotional purposes in this state by its manufacturer or distributor if
147 the sum of the incidental concentration levels of lead, cadmium,
148 mercury and hexavalent chromium present in such package or
149 packaging component exceeds the following: Six hundred parts per
150 million by weight, effective October 1, 1992; two hundred fifty parts per
151 million, effective October 1, 1993; and one hundred parts per million by
152 weight, effective October 1, 1994.

153 (d) Concentration levels of lead, cadmium, mercury, and hexavalent
154 chromium shall be determined using the United States Environmental
155 Protection Agency Tests Methods for Evaluating Solid Waste, SW-846,
156 as revised.

157 (e) Not later than October 1, 2023, a manufacturer, supplier or
158 distributor may not offer for sale or for promotional purposes a package
159 or packaging component to which PFAS was introduced during
160 manufacturing or distribution in any amount or that has any detectable
161 PFAS in such package or packaging component.

162 (f) No material used to replace a chemical regulated by sections 22a-
163 255g to 22a-255m, inclusive, as amended by this act, in a package or
164 packaging component may be used in a quantity or manner that creates
165 a hazard as great as, or greater than, the hazard created by the chemical
166 regulated by sections 22a-255g to 22a-255m, inclusive.

167 Sec. 3. Section 22a-255k of the general statutes is repealed and the
168 following is substituted in lieu thereof (*Effective July 1, 2021*):

169 [No manufacturer or distributor of a product shall be deemed to have

170 violated any provision of sections 22a-255g to 22a-255m, inclusive, if
171 such manufacturer or distributor can show that, in the purchase of a
172 package or packaging component, he relied in good faith on the written
173 assurance of the manufacturer of such packaging or packaging
174 component that such packaging or packaging component met the
175 requirements of section 22a-255i. Such written assurance shall take the
176 form of a certificate of compliance stating that a package or packaging
177 component is in compliance with the requirements of sections 22a-255g
178 to 22a-255m, inclusive, provided if compliance is achieved pursuant to
179 an exemption provided in section 22a-255j, the certificate shall state the
180 specific basis upon which the exemption is claimed. The certificate of
181 compliance shall be signed by an authorized official of the manufacturer
182 or distributor. A manufacturer or distributor of a package or packaging
183 component shall furnish a copy of the certificate of compliance to the
184 commissioner upon his request.]

185 (a) Upon request, a certificate of compliance stating that a package or
186 packaging component is in compliance with the requirements of
187 sections 22a-255g to 22a-255m, inclusive, as amended by this act, shall
188 be furnished by its manufacturer or supplier to the purchaser of the
189 packaging or packaging component. In the event that an exemption is
190 claimed pursuant to section 22a-255j, such certificate of compliance shall
191 state the specific basis upon which the exemption is claimed. Any such
192 certificate of compliance shall be signed by an authorized official of the
193 manufacturing or supplying company. The purchaser shall retain the
194 certificate of compliance for the duration of the use of such package or
195 packaging component. A copy of the certificate of compliance shall be
196 kept on file by the manufacturer or supplier of the package or packaging
197 component.

198 (b) Certificates of compliance, or copies thereof, shall be furnished to
199 the Commissioner of Energy and Environmental Protection and to
200 members of the public upon request. A manufacturer or supplier may
201 make the certificate of compliance available on such manufacturer's
202 Internet web site or through an authorized representative of such
203 manufacturer, including, but not limited to, a packaging clearinghouse.

204 Any request from a member of the public for any certificate of
205 compliance from the manufacturer or supplier of a package or
206 packaging component shall be: (1) Made in writing, with a copy
207 provided to the commissioner, (2) made specific as to the package or
208 packaging component information requested, and (3) responded to by
209 the manufacturer or supplier not later than sixty days after receipt of
210 such request.

211 (c) If the manufacturer or supplier of the package or packaging
212 component reformulates or creates a new package or packaging
213 component, the manufacturer or supplier shall provide an amended or
214 new certificate of compliance for the reformulated or new package or
215 packaging component to all current purchasers.

216 (d) If there are grounds to suspect that a package is offered for sale in
217 violation of this chapter, the commissioner may request that the
218 manufacturer or distributor of the package provide a certificate of
219 compliance with the applicable provisions of this chapter. Not later than
220 thirty days after receipt of a request under this subsection, the
221 manufacturer or distributor shall: (1) Provide the commissioner with the
222 certificate attesting that the package does not contain a chemical
223 regulated under this chapter, or (2) notify persons who sell the package
224 in this state that the sale of the package is prohibited and provide the
225 commissioner with a copy of the notice and a list of the names and
226 addresses of those persons notified pursuant to this section.

227 Sec. 4. Section 22a-255m of the general statutes is repealed and the
228 following is substituted in lieu thereof (*Effective July 1, 2021*):

229 (a) The commissioner may, in consultation with the other member
230 states of the Toxics in Packaging Clearing House, review the
231 effectiveness of sections 22a-255g to 22a-255m, inclusive, and provide a
232 report based on such review to the Governor and the General Assembly.
233 [The] As indicated in subsection (c) of this section, the report may
234 describe substitutes which manufacturers and distributors of packages
235 and packaging components have used in place of lead, mercury,

236 cadmium and hexavalent chromium, and may contain
237 recommendations concerning (1) other toxic substances contained in
238 packaging that should be added to those regulated under the provisions
239 of sections 22a-255g to 22a-255m, inclusive, in order to further reduce
240 the toxicity of packaging waste, and (2) the advisability of retaining the
241 exemption provided in subdivision (2) of section 22a-255j.

242 (b) For the purpose of gathering information for the review and
243 report described in subsection (a) of this section, the commissioner may
244 inspect and copy the records of any person (1) engaged in the
245 manufacture or distribution of packages or packaging components if
246 such records pertain to the processes by which such packages or
247 packaging components are manufactured, including the nature and
248 amounts of substances utilized, and (2) who produces or supplies
249 materials for the manufacture of packages or packaging components, if
250 such records pertain to the nature and amount of substances in such
251 materials or the identities or locations of purchasers or recipients of such
252 materials. Upon request of the commissioner, any such person shall
253 allow the commissioner to inspect and copy such records or shall
254 provide copies of such records to the commissioner.

255 (c) In accordance with the requirements of this section, the
256 commissioner may periodically revise and publish a list of packaging
257 chemicals of high concern. A chemical may be included on such list if:
258 (1) The chemical is included on the list of chemicals of concern published
259 by the Department of Energy and Environmental Protection on the basis
260 of credible scientific evidence as being (A) a carcinogen, a reproductive
261 or developmental toxicant or an endocrine disruptor, (B) persistent,
262 bioaccumulative and toxic, (C) very persistent and very
263 bioaccumulative, (D) persistent mobile and toxic, or (E) very persistent
264 and very mobile; (2) the commissioner determines that there is strong
265 credible scientific evidence that the chemical is a reproductive or
266 developmental toxicant, endocrine disruptor or human carcinogen; or
267 (3) the commissioner determines that there is strong credible scientific
268 evidence that the chemical (A) was found through biomonitoring
269 studies to be present in human blood, human breast milk, human urine

270 or other human bodily tissues or fluids, (B) was found through sampling
271 and analysis to be present in packaging, and (C) was added to or is
272 present in a package.

273 (d) The commissioner may periodically review the list published
274 pursuant to subsection (c) of this section and shall remove from the list
275 any packaging chemical of high concern that no longer meets the criteria
276 contained in subsection (c) of this section. The commissioner may add
277 to the list additional packaging chemicals of high concern that meet the
278 criteria of subsection (c) of this section provided such list may not at any
279 one time include more than ten packaging chemicals of high concern.

280 (e) A packaging chemical of high concern listed pursuant to
281 subsection (c) of this section shall be considered a toxic chemical. To
282 fulfill this chapter's goal of reducing the toxicity of packaging waste, the
283 commissioner may recommend to the joint standing committee of the
284 General Assembly having cognizance of matters relating to the
285 environment that such toxic chemical be added to the prohibited
286 chemicals regulated pursuant to sections 22a-255g to 22a-255m,
287 inclusive, not later than two years after the date of such
288 recommendation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2021</i>	22a-255h
Sec. 2	<i>July 1, 2021</i>	22a-255i
Sec. 3	<i>July 1, 2021</i>	22a-255k
Sec. 4	<i>July 1, 2021</i>	22a-255m

Statement of Purpose:

To prohibit the sale of consumer packaging that contains PFAS.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]