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## **OLR Bill Analysis**

### **sSB 292**

#### ***AN ACT CONCERNING THE USE OF PFAS IN CERTAIN PRODUCTS.***

##### **SUMMARY**

Beginning October 1, 2024, this bill bans using, selling, or offering for sale as a soil amendment any biosolids or wastewater sludge that contains per- and polyfluoroalkyl substances (PFAS) (see BACKGROUND).

Beginning January 1, 2026, it also bans selling, or offering or distributing for sale, the following categories of products if they contain intentionally added PFAS: apparel, carpets or rugs, cleaning products, cookware, cosmetics, dental floss, fabric treatments, children's products, menstruation products, textile furnishings, ski wax, and upholstered furniture. ("Intentionally added PFAS" is any PFAS deliberately added during a product's manufacturing process where PFAS is desired for a specific function.) This ban applies to new products only and to any identifiable component of them, even if the product's manufacturer is not the component's manufacturer.

The bill extends this ban on January 1, 2028, to outdoor apparel for severe wet conditions. However, beginning January 1, 2026, the bill prohibits the distribution, sale, or offering for sale of new (or not previously used) outdoor apparel for severe wet conditions that contains PFAS unless the product (and any online listing for it) includes a clear disclosure stating "Made with PFAS chemicals."

The bill also generally requires manufacturers of products sold, offered, or distributed in the state with intentionally added PFAS to report certain information to the Department of Energy and Environmental Protection (DEEP) commissioner by January 1, 2027. This includes a product description, why PFAS is in the product, and

the amount of PFAS in it. The bill prohibits anyone from selling, or offering or distributing for sale, a product with intentionally added PFAS if the manufacturer fails to report the required information to DEEP and the commissioner notifies the person that the sale is prohibited.

Lastly, the bill explicitly specifies that school districts are eligible for funding from the General Fund's PFAS testing account to test for and remediate PFAS contamination in drinking water supplies. Under existing law, the DEEP commissioner uses the account, in consultation with the public health commissioner, to provide grants or reimbursements to "municipalities," which includes school districts.

EFFECTIVE DATE: October 1, 2024, except that the provision specifying that school districts may receive funding from the PFAS testing account is effective upon passage.

### **EXEMPTIONS**

The bill specifies that it does not apply to the sale or resale of a used product or the following products (which are generally regulated in other ways):

1. those for which federal law governs the presence of PFAS in a way that preempts state authority;
2. Class B firefighting foam;
3. packaging with intentionally added lead, cadmium, mercury, or hexavalent chromium; and
4. food packaging with intentionally added PFAS.

The bill's products ban and manufacturer testing requirements (see below) do not apply to prosthetic or orthotic devices or to medical devices or drugs used in medical settings that the U.S. Food and Drug Administration regulates.

The bill's testing requirements do not apply to outdoor apparel for severe wet conditions until January 1, 2028.

## **INTENTIONALLY ADDED PFAS PRODUCT BAN**

### ***Applicability***

The bill defines most of the products banned beginning January 1, 2026, often with a generally accepted meaning along with specific examples and, in some cases, exclusions. Under the bill, “apparel” excludes personal protective equipment or clothing used exclusively by the U.S. military. “Carpet or rug” excludes a covering meant only for use in a vehicle (e.g., floor mats). “Cosmetic” excludes soap. “Children’s product” is generally a product designed for an infant or child under age 12, but specifically excludes adult mattresses and electronic devices and related equipment (e.g., computer, wireless phone, game console, mouse, keyboard, or power cord).

### ***Notice Required***

The bill requires each manufacturer to notify anyone who sells or offers for sale a banned product that its sale is prohibited in Connecticut. The manufacturer must give the DEEP commissioner the names and addresses of anyone so notified. Under the bill, the DEEP commissioner may also notify anyone who sells or offers a prohibited product for sale that the sale is prohibited.

## **MANUFACTURER REPORTING REQUIREMENTS**

The bill requires manufacturers of products sold, offered for sale, or distributed in the state with intentionally added PFAS to report specified information to DEEP by January 1, 2027. Under the bill, a “manufacturer” is the person who creates or produces the product or whose brand name is on it. For products imported into the United States, this includes the importer or first domestic distributor if that person does not have a U.S. presence. A “product” is any item manufactured, assembled, packaged, or prepared for sale to consumers, including product components, or sold or distributed for personal, residential, commercial, or industrial use.

The bill also requires the manufacturer to (1) submit the information to DEEP whenever a new product with intentionally added PFAS is sold, offered for sale, or distributed in the state and (2) update the

information whenever it significantly changes or when the commissioner requests it.

The manufacturer must report the following information to DEEP:

1. a brief product description, including the universal product code, stock-keeping unit, or other numeric code assigned to it;
2. why the PFAS are in the product, including in any product component;
3. the amount of each PFAS in the product, identified by their chemical abstracts service registry numbers and reported as an exact quantity determined by using commercially available analytical methods or within a range the commissioner approves for reporting purposes;
4. the manufacturer's name and address and a contact person's name, address, and phone number; and
5. any additional information the commissioner needs.

With the commissioner's approval, a manufacturer may give the required information for a product category or type, rather than for each individual product.

For certain regulated products, including pesticides, fertilizer, agricultural liming material, and soil amendments, manufacturers can comply with these reporting requirements by submitting the above information with their annual registration or during the approval processes required for them under state law. The bill requires the DEEP and agriculture commissioners to jointly determine whether to make their information public based on state law.

### ***Failure to Report Prohibits a Product From Being Sold***

The bill prohibits anyone from selling, or offering or distributing for sale, a product with intentionally added PFAS if the manufacturer fails to report the required information to DEEP and the commissioner notifies the person that the sale is prohibited (which she is allowed to do

under the bill). As with other banned products, each manufacturer must notify any person who sells or offers for sale a product subject to this prohibition that its sale is prohibited in Connecticut. The manufacturer must give the DEEP commissioner the names and addresses of anyone so notified.

### ***Reporting Waiver or Extension***

The bill allows the DEEP commissioner to waive all or some of the reporting requirements if she determines that substantially equivalent information is already publicly available. She may grant a waiver to a manufacturer or group of manufacturers for multiple products or a product category. The commissioner may also enter into an agreement with other states or political subdivisions to collect and share information that manufacturers must report, and may accept that information as satisfying the reporting requirements.

The bill allows the commissioner to extend the January 1, 2027, reporting deadline for a manufacturer if she determines that the manufacturer needs more time to comply.

### ***Establishing Reporting Fees by Regulation***

The bill also allows the commissioner to adopt regulations establishing a fee that each manufacturer must pay when submitting the required information described above. The fees are to cover DEEP's reasonable costs to implement the bill.

## **MANUFACTURER TESTING REQUIREMENTS**

The bill allows the DEEP commissioner, when she has reason to believe a product has intentionally added PFAS and is being offered for sale in the state, to have the manufacturer report testing results to her within 30 days. The results must include the amount of PFAS in the product, identified by their chemical abstracts service registry numbers and reported as an exact quantity determined by using commercially available analytical methods or within a range the commissioner approves for reporting purposes.

If the testing shows that the product does not have intentionally

added PFAS, the manufacturer must give the commissioner a certificate attesting to this. If testing shows that the product does have intentionally added PFAS, the manufacturer must comply with the bill's reporting requirements described above.

## **ENFORCEMENT**

The bill specifies that the DEEP commissioner may enforce the bill's provisions under her general powers granted by state law. She may also coordinate with the agriculture, consumer protection, and public health commissioners to do so.

The bill requires anyone to give the DEEP commissioner, upon her request, any information that the person may have or can reasonably get that is relevant to show compliance with the bill's provisions.

## **BACKGROUND**

### **PFAS**

Per- and polyfluoroalkyl substances, commonly known as PFAS, are a class of man-made chemicals that are resistant to heat, water, and oil. They have been used in industrial applications and various consumer products since the 1940s. PFAS are persistent in the environment and the human body; they bioaccumulate (i.e., concentrations increase over time) and do not break down.

## **COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 34 Nay 0 (03/20/2024)