

BCLPmerging.com

MAINE SIGNIFICANTLY AMENDS ITS PFAS CONSUMER PRODUCTS LAW

May 03, 2024

In 2021, Maine passed the most sweeping law related to the regulation of PFAS in consumer products at that time. Subsequently, the law was amended in 2023, and on April 16, 2024, Governor Mills signed L.D. 1537, entitled “An Act to Amend the Laws Relating to the Prevention of Perfluoroalkyl and Polyfluoroalkyl Substances Pollution” which further modifies the scope and requirements of the law. Interestingly, the amended version of the law is now more similar to Minnesota’s HF 2310, which is the only other enacted state law that will eventually prohibit the presence of intentionally added PFAS in almost all consumer products.

The Maine Department of Environmental Protection (“MDEP”) also published a helpful resource entitled “PFAS in Products” which, in part, presents information regarding this law.

REPORTING FOR PRODUCTS CONTAINING INTENTIONALLY ADDED PFAS

ORIGINAL LAW

January 1, 2025 (Extended from 2023) – Report all consumer products sold or distributed in Maine that contain intentionally added PFAS.

AMENDED LAW

January 1, 2026 – Report only for consumer products approved by MDEP as a Currently Unavoidable Use for PFAS, but there is no general reporting requirement for all consumer products.

These reporting requirements do not apply to manufacturers with 100 employees or less.

ULTIMATE PROHIBITION ON INTENTIONALLY ADDED PFAS

ORIGINAL LAW

January 1, 2030 – The sale or distribution in Maine of products that contain intentionally added PFAS is prohibited

AMENDED LAW

January 1, 2032 - The sale or distribution in Maine of products that contain intentionally added PFAS is prohibited, including products that do not contain intentionally added PFAS, but are sold in a fluorinated container or in a container that otherwise contains intentionally added PFAS, excluding:

- Used products
- Cooling, heating, ventilation, air conditioning and refrigeration equipment, including parts and other servicing needs for such equipment
- Refrigerants, foams, and aerosol propellants that are allowed by [EPA's Significant New Alternative Policy program](#)

BANS FOR SPECIFIC CONSUMER PRODUCT CATEGORIES

ORIGINAL LAW

January 1, 2023 – Prohibition on the sale or distribution of:

- Carpets that contain intentionally added PFAS
- Fabric treatments that contain intentionally added PFAS

AMENDED LAW

January 1, 2026 – New products in the following categories cannot contain intentionally added PFAS:

- Cleaning products
- Cookware products
- Cosmetic products
- Dental floss
- Juvenile products
- Menstruation products

- Textile articles *excluding*
 - Outdoor apparel for severe wet conditions
 - Textile articles that are included in or is a component part of a watercraft, aircraft, or motor vehicle
- Ski wax
- Upholstered furniture

The prohibition also applies to products in the categories above that do not contain intentionally added PFAS if they are sold, offered for sale, or distributed in a fluorinated container or container that otherwise contains intentionally added PFAS.

January 1, 2029 – Sale and distribution of the following products is prohibited in Maine:

- Artificial turf containing intentionally added PFAS
- Outdoor apparel for severe wet conditions which contains intentionally added PFAS unless it has a PFAS disclosure

January 1, 2040 – A person may not sell, offer for sale, or distribute the following products in Maine:

- Cooling, heating, ventilation, air conditioning or refrigeration equipment that contains intentionally added PFAS
- Refrigerants, foams, or aerosol propellants that contain intentionally added PFAS
- Either category of product listed above if the product is sold or distributed in a fluorinated container, or packaging that otherwise contains intentionally added PFAS
- These prohibitions do not apply to used products, or products sold as replacement parts

EXEMPTIONS

ORIGINAL LAW

1. Products subject to a federal law that preempts state authority
2. A package unless the package is the product of the manufacturer
3. Used products

AMENDED LAW

1. All of the existing exemptions
2. Firefighting or fire-suppressing foam
3. Prosthetic or orthotic device, or any device, drug, or biologic that is regulated by the FDA
4. Veterinary products, and any veterinary medical device regulated by the FDA, USDA under the Virus-Serum-Toxin Act, or EPA under FIFRA
5. Products developed or manufactured for public health, environmental, or water quality testing
6. Products required to meet the requirements of the DoT, FAA, NASA, DoD, or Homeland Security, except for textile articles or refrigerants
7. Motor vehicles, motor vehicle equipment, farm equipment, all-terrain vehicles, and personal assistive mobility devices, except for textile articles or refrigerants
8. Watercraft, except for textile articles or refrigerants
9. Semiconductors, or the equipment and materials used in the manufacture of semiconductors
10. Non-consumer electronics and non-consumer laboratory equipment not ordinarily used for personal, family or household purposes
11. Equipment directly used to manufacture or develop categories 3-10 above.

CONCLUSION

While many businesses will welcome the short-term relief from the 2025 reporting obligations, the amended law will have a more immediate effect on the industries impacted by the prohibitions that go into effect in 2026. Overall, the revisions underscore how difficult it is to be one of the states that is leading the charge on regulating PFAS in consumer products, and the importance for businesses of staying up to speed on the latest regulatory developments.

For more information on PFAS chemicals, and the regulatory and litigation risks that they pose, please visit our [PFAS webpage](#). If you have a question about how to manage PFAS risk in any jurisdiction, including in Maine, contact Tom Lee, Merrit Jones, Erin Brooks, Bryan Keyt, or any other member of our PFAS team at BCLP.

RELATED PRACTICE AREAS

- PFAS Team

MEET THE TEAM



Thomas S. Lee

San Francisco

tom.lee@bcplaw.com

[+1 415 675 3447](tel:+14156753447)



Bryan E. Keyt

Chicago

bryan.keyt@bcplaw.com

[+1 312 602 5036](tel:+13126025036)



Erin L. Brooks

Chicago / St. Louis

erin.brooks@bcplaw.com

[+1 312 602 5093](tel:+13126025093)



John R. Kindschuh

St. Louis

john.kindschuh@bclplaw.com

+1 314 259 2313

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon (kathrine.dixon@bclplaw.com) as the responsible attorney.