

Date of Hearing: April 26, 2022

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Bill Quirk, Chair

AB 2247 (Bloom) – As Amended April 20, 2022

SUBJECT: Perfluoroalkyl and polyfluoroalkyl substances (PFAS) and PFAS products and product components: publicly accessible reporting platform

SUMMARY: Requires, on or before July 1, 2024, a manufacturer of perfluoroalkyl and polyfluoroalkyl substances (PFAS) or a product or product component containing regulated PFAS that is sold, offered for sale, or distributed into the state to register the PFAS or the product or product component containing regulated PFAS on the publicly accessible reporting platform created by the Department of Toxic Substances Control (DTSC) and the Interstate Chemicals Clearinghouse (ICC). Specifically, **this bill:**

- 1) Defines "manufacturer" as any of the following:
 - a) A person or entity who manufactures PFAS or imports PFAS into the state;
 - b) A person or entity who manufactures a product or product component containing regulated PFAS or imports a product or product component containing regulated PFAS into the state, or whose name appears on the product label; and,
 - c) A person or entity for whom the PFAS or product or product component containing regulated PFAS is manufactured or distributed, as identified by the product label pursuant to the federal Fair Packaging and Labeling Act (15 United States Code § 1451 et seq.).
- 2) Provides that a "manufacturer" does not include a state agency or a local agency.
- 3) Defines "perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" as a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.
- 4) Defines "Regulated perfluoroalkyl and polyfluoroalkyl substances" or "regulated PFAS" as either of the following:
 - a) PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product, including the PFAS components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product; or,
 - b) The presence of PFAS, as measured in total organic fluorine, in a product or product component at or above the limit of quantification.
- 5) Defines "product" as an item, including its product components, that is manufactured, assembled, packaged, or otherwise prepared for sale or distributed, including for personal, residential, commercial, or industrial use, or for use in making other products.
- 6) Defines "product component" as a component of a product, including the product's ingredients or a part of the product.

- 7) Requires DTSC, on or before January 1, 2024, to work with the ICC to establish a publicly accessible reporting platform to collect information about PFAS and products or product components containing regulated PFAS being sold, offered for sale, distributed, or offered for promotional purposes in, or imported into, the state.
- 8) Requires, on or before July 1, 2024, and on or before July 1 each year thereafter, a manufacturer of PFAS or a product or product component containing regulated PFAS that is sold, offered for sale, distributed, or offered for promotion purposes in, or imported into, the state to register the PFAS or the product or product component containing regulated PFAS on the publicly accessible reporting platform created by the ICC along with specified information.

EXISTING LAW:

- 1) Requires, commencing January 1, 2022, a person that sells firefighter personal protective equipment to provide a written notice to the purchaser if the firefighter personal protective equipment contains intentionally added PFAS chemicals. (Health and Safety Code (HSC) § 13029. (b)(1))
- 2) Prohibits, commencing January 1, 2022, a manufacturer of class B firefighting foam from manufacturing, or knowingly selling, offering for sale, distributing for sale, or distributing for use, and a person from using, class B firefighting foam containing intentionally added PFAS chemicals. (HSC § 13061 (b)(1))
- 3) Prohibits, on and after July 1, 2023, a person, including, but not limited to, a manufacturer, from selling or distributing in commerce in this state any new, not previously owned, juvenile product that contains regulated PFAS chemicals. (HSC § 108946)
- 4) Prohibits, commencing January 1, 2025, a person or entity from manufacturing, selling, delivering, holding, or offering for sale, in commerce any cosmetic product that contains any of specified intentionally added ingredients. (HSC § 108980 (a))
- 5) Prohibits, commencing on January 1, 2023, a person from distributing, selling, or offering for sale in the state any food packaging that contains regulated PFAS. (HSC § 109000)
- 6) Authorizes the State Water Resources Control Board (State Water Board) to order a public water system to monitor for PFAS, requires community water systems to report detections, and where a detected level of these substances exceeds the response level, to take a water source out of use or provide a prescribed public notification. (HSC § 116378)
- 7) Requires the Department of Toxic Substances Control (DTSC) to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered chemicals of concern, as specified. (HSC § 25252)
- 8) Requires DTSC to adopt regulations to establish a process to evaluate chemicals of concern in consumer products, and their potential alternatives, to determine how to best limit exposure or to reduce the level of hazard posed by a chemical of concern. (HSC § 25253 (a))

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill: According to the author, "PFAS are harmful to the health and wellbeing of all Californians. It's unconscionable that PFAS are polluting our drinking water systems and impacting some of our most vulnerable communities. AB 2247 will help us accurately identify how much PFAS is coming into the State of California. Giving the State the authority to collect this data will enable us to explore how best to mitigate its harmful impacts. Without this information, we cannot take meaningful steps toward protecting the health of Californians and our environment in the long-term."

Perfluoroalkyl and polyfluoroalkyl substances (PFAS): PFAS are a class of synthetic chemicals that have been in use in industrial and consumer products since the 1940s for their heat, water, and lipid resistance properties. PFAS are synthetic fluorinated organic compounds that contain at least one fully fluorinated carbon atom that share one common trait – extremely stable carbon-fluorine bonds that make them or their final degradation products highly persistent in the environment. Most PFAS are mobile and some are volatile, leading to contamination of soils and groundwater far from the source of the PFAS emission. PFAS have been detected in all corners of the globe, from penguin eggs in Antarctica to polar bears in the Arctic.

PFAS have been used extensively in surface coating and protectant formulations due to their unique ability to reduce the surface tension of liquids, including in consumer products such as carpets, clothing, fabrics for furniture, apparel, paper packaging for food, non-stick cookware, and other products designed to be waterproof or water resistant; grease, heat and stain resistant; or, non-stick. Applications span many sectors of the economy, including aerospace, apparel, automotive, building and construction, chemicals and pharmaceuticals, electronics and semiconductors, energy, oil and gas exploration, first responder safety, and health care. During production, use, and disposal, PFAS can migrate into the soil, water, and air.

As of September 2020, more than 9,000 PFAS chemicals were included in the United States Environmental Protection Agency's (US EPA's) Master List of PFAS Substances. Of all PFAS compounds, perfluoroalkyl acids (PFAAs), which include perfluorooctanesulfonic acid (PFOS) and perfluorooctanoic acid (PFOA), are the most extensively studied and are associated with a number of health hazards, including endocrine disruption, developmental and reproductive toxicity, and immune dysregulation. PFOA, most commonly known as the chemical that had been used to produce Teflon, and PFOS, formerly used in Scotchgard, are known as "long-chain" chemicals, meaning they have six or more carbon molecules. These chemicals are extremely persistent in soil and water due to their resistance to typical environmental degradation processes, and can bioaccumulate and persist in human and animal tissues. According to DTSC, the majority (~85%) of PFAS are PFAA precursors, meaning they can degrade or metabolize into PFAAs in the environment or in living organisms.

While the use of PFOS, PFOA, and other long-chain PFAS has recently declined, short-chain PFAS, including short-chain PFAAs, are widely used as alternatives to long-chain PFAS. Emerging data on these newer chemicals indicate that they are also highly persistent in the environment; behave in a similar fashion in the human body, particularly at the cellular level, as long-chain PFAS; and, are even more mobile in the environment than long-chain PFAS. This means that they travel even more easily, can be harder to clean up, and are more likely to be released from consumer products than long-chain PFAS.

PFAS are ubiquitous, and are found in indoor and outdoor environments, plants, wildlife, companion animals, production animals, food, drinking water, and humans. Scientists have

found PFOA and PFOS in the blood of nearly all people tested. According to the Centers for Disease Control and Prevention (CDC), blood levels of both PFOS and PFOA have steadily decreased in US residents since 1999-2000. Nonetheless, the National Health and Nutrition Examination Survey still routinely detects several PFAS in the blood of nearly all participants. As the number of PFAS compounds continues to grow, exposure to these new chemicals is difficult to assess.

Exposure to PFAS: The main route of exposure to PFAS is through ingestion of contaminated food or liquid (accounting for up to half of total exposure), and through inhalation and ingestion of contaminated indoor air and dust. Food can become contaminated with PFAS through contaminated soil and water used to grow the food, food packaging containing PFAS, and equipment that uses PFAS during food processing. Some foods, such as fish, meat, eggs and leafy vegetables, may contain PFAS due to bioaccumulation and crop uptake. Studies have shown that PFAS can transfer from pregnant mothers to their fetuses via the placenta during gestation, as well as transfer from nursing mothers to their infants via breastfeeding. Dermal exposure is also possible when people touch products treated with PFAS, such as carpets or clothing. Young children may be susceptible to higher levels of exposure than adults because they ingest more dust containing PFAS and mouth PFAS-treated consumer products. Workers, such as carpet installers, carpet cleaners, firefighters, and workers in furniture, furnishings, outdoor clothing, and carpet stores, may also experience above average PFAS exposure levels.

Exposure to PFAS in drinking water is an escalating concern due to the persistence of PFAS chemicals in the environment and their tendency to accumulate in groundwater. Groundwater PFAS contamination typically has been associated with industrial facilities where these chemicals were manufactured or used in other products, and in airfields where the chemicals have been used for firefighting. PFAS chemicals can also enter the environment and drinking water through composting, landfilling, recycling, and incineration of products containing PFAS. The State Water Board indicates that the four major sources of PFAS in drinking water in California are fire training/fire response sites, industrial sites, landfills, and wastewater treatment plants/biosolids. The State Water Board notes that because of their presence and persistence in many drinking water supplies, PFAS remain a serious source of exposure decades after their release into the environment.

Like humans, wildlife is exposed to PFAS by consuming contaminated water or food. Within aquatic food webs, PFAS were found to increase in concentration from ambient water to plankton and further up the food chain.

Hazard traits of PFAS: According to DTSC, all PFAS display at least one of the hazard traits identified in California's Safer Consumer Products (Green Chemistry) Hazard Traits Regulations (22 C.C.R § 69401 et seq.). An intrinsic property of PFAS is the extreme environmental persistence of either the individual compounds or their degradation products or both, resulting in their classification "forever chemicals." Most PFAS are mobile in environmental media such as air and water, and thus are widespread in living organisms and the environment. Several PFAS bioaccumulate significantly in animals or plants and emerging evidence points to their phytotoxicity, aquatic toxicity, and terrestrial ecotoxicity.

DTSC contends that exposure to PFAS can lead to adverse health outcomes in humans. If humans are exposed to PFAS through diet, drinking water, or inhalation, some of these chemicals remain in the body for a long time. As people continue to be exposed to PFAS, the

PFAS levels in their bodies may increase to the point where they suffer from adverse health effects. According to the US EPA, current peer-reviewed scientific studies have shown that exposure to certain levels of PFAS may lead to: reproductive effects such as decreased fertility or increased high blood pressure in pregnant women; developmental effects or delays in children, including low birth weight, accelerated puberty, bone variations, or behavioral changes; increased risk of some cancers, including prostate, kidney, and testicular cancers; reduced ability of the body's immune system to fight infections, including reduced vaccine response; interference with the body's natural hormones; and, increased cholesterol levels and/or risk of obesity.

Regulating PFAS as a class: DTSC, through its SCP Program has adopted a rationale for regulating PFAS chemicals as a class, concluding, "it is both ineffective and impractical to regulate this complex class of chemicals with a piecemeal approach." This rationale was presented in the February, 2021, *Environmental Health Perspectives* article, "Regulating PFAS as a Chemical Class under the California Safer Consumer Products Program." The authors of the article state,

"The widespread use, large number, and diverse chemical structures of PFAS pose challenges to any sufficiently protective regulation, emissions reduction, and remediation at contaminated sites. Regulating only a subset of PFAS has led to their replacement with other members of the class with similar hazards, that is, regrettable substitutions. Regulations that focus solely on perfluoroalkyl acids (PFAAs) are ineffective, given that nearly all other PFAS can generate PFAAs in the environment... We at the California DTSC propose regulating certain consumer products if they contain any member of the class of PFAS because: *a*) all PFAS, or their degradation, reaction, or metabolism products, display at least one common hazard trait according to the California Code of Regulations, namely environmental persistence; and *b*) certain key PFAS that are the degradation, reaction or metabolism products, or impurities of nearly all other PFAS display additional hazard traits, including toxicity; are widespread in the environment, humans, and biota; and will continue to cause adverse impacts for as long as any PFAS continue to be used. Regulating PFAS as a class is thus logical, necessary, and forward-thinking."

Other researchers have also recently made the case for managing PFAS as a chemical class, including in "Scientific Basis for Managing PFAS as a Chemical Class" published in June, 2020, in *Environmental Science & Technology Letters* and "Strategies for grouping per- and polyfluoroalkyl substances (PFAS) to protect human and environmental health" also published in June, 2020, in *Environmental Science: Processes & Impacts*.

Historic US action on PFAS: Federal interest in PFAS has spanned decades, and manufacturers have been aware of the PFAS' adverse impact potential since the 1970s or 1980s. In 2005, the US EPA's Office of Pollution Prevention and Toxics Science Advisory Board labeled PFOA a 'likely' carcinogen in humans. In 2007, the CDC published the results of two studies of human exposure to 11 PFAS. In both studies, PFOS and PFOA, as well as another PFAS, perfluorohexane sulfonic acid (PFHxS), were detected in approximately 98% of the population.

While research on PFOA was being compiled by federal agencies, in 2004, the US EPA took administrative action against DuPont, a manufacturer of PFOA, for violating the law for repeatedly failing to report known information to US EPA about substantial risk of injury to human health or the environment from PFOA from 1981 through 2001. In 2005, the US EPA

settled with DuPont for violations related to PFOA exposure for the largest civil administrative penalty US EPA had ever obtained under any federal environmental statute.

Beginning in 2003, the US EPA negotiated with multiple parties to produce missing information on PFOA through enforceable consent agreements, memoranda of understanding, and voluntary commitments. In January 2006, the US EPA and eight prominent companies in the industry, including 3M and DuPont, created the 2010/15 PFOA Stewardship Program. Under the program, the companies committed to voluntarily reduce emissions and product content of PFOA and related chemicals on a global basis by 95 percent by 2010, and to work toward eliminating emissions and product content of these chemicals by 2015.

According to the US EPA's website, all participating companies state that they met the PFOA Stewardship Program goals. Companies reported that to meet the program goals, most stopped the manufacture and import of long-chain PFAS, and then transitioned to alternative chemicals. Many of these alternatives were other PFAS. Other companies exited the PFAS industry altogether.

State action on PFAS: California has undertaken efforts to address PFAS substances across several state agencies.

At DTSC, all PFAS chemicals are "Candidate Chemicals" under the Safer Consumer Products (SCP, previously known as Green Chemistry) Program, because they exhibit a hazard trait and/or an environmental or toxicological endpoint, and the entire class was added by the California Environmental Contaminant Biomonitoring Program to its list of priority chemicals.

On July 1, 2021, DTSC designated carpets and rugs containing PFAS as a "Priority Product." A Priority Product is a consumer product identified by DTSC that contains one or more Candidate Chemicals and that has the potential to contribute to significant or widespread adverse impacts to humans or the environment. The Priority Product designation required domestic and foreign carpet and rug manufacturers that use PFAS and related chemicals in their products to submit a Priority Product Notification (PPN), which names all of the manufacturer's products that contain PFAS and are sold in California, by August 30, 2021. Manufacturers were then required to show intent to remove or replace PFAS in their products, remove the product from the market, or identify potential alternatives to PFAS to be used in the product by December 28, 2021.

In regulations that will go into effect on April 1, 2022, DTSC also designated treatments containing PFAS for use on converted textiles or leathers such as carpets, upholstery, clothing, and shoes as a new Priority Product. Domestic and foreign manufacturers of treatments for converted textiles or leathers that contain any member of the class of PFAS selling their products in California must submit a PPN for those products by May 31, 2022. After submitting the PPN, manufacturers will then be required to show intent to mitigate exposure to PFAS in their products by September 28, 2022.

DTSC has also proposed investigating artificial turf with PFAS in their Draft Priority Product Work Plan for 2021-2023. Previously, DTSC proposed investigating PFAS in other product categories, such as food packaging and children's products, but during the investigative period the Legislature prohibited PFAS in those product categories and it appears DTSC has shifted its resources to investigating other products/ chemical combinations.

The State Water Board has taken a number of additional recent actions related to PFAS in drinking water, including, in July 2020, issuing investigative orders to publicly owned treatment works (POTW) that receive PFAS in their influent wastewater flow to include sampling for 31 PFAS compounds. It also issued a General Order, in August 2020, for public water systems to sample for and report PFAS.

Recently, the State Legislature has taken action on PFAS by enacting a ban on food packaging that contains PFAS (AB 1200, Ting, Chapter 503, Statutes of 2021); a ban on new juvenile products that contain PFAS (AB 652, Freidman, Chapter 500, Statutes of 2021); and, a ban on firefighting foam containing PFAS (SB 1044, Allen, Chapter 308, Statutes of 2020). The Legislature also authorized the State Water Board to order public water systems to monitor for PFAS and required municipalities to notify consumers for PFAS detected above notification levels (AB 756, C. Garcia, Chapter 162, Statutes of 2019).

Existing authority for DTSC to request PFAS information: Under the Safer Consumer Products statute, DTSC has authority to request information from manufacturers and others. Specifically, California Code of Regulations, title 22, section 69501.4(b) authorizes DTSC to request information from product or chemical manufacturers, importers, assemblers, or retailers that it determines necessary to implement the Safer Consumer Products Program's framework regulations, via an information call-in. DTSC may use the information obtained through call-ins for several purposes, including identifying product-chemical combinations to evaluate as potential Priority Products; identifying and analyzing alternatives to eliminate or reduce potential exposures and adverse impacts; and filling data gaps to improve understanding and reduce research time. *It is important to note that the statute authorizes DTSC to "request" this chemical information, however there are no requirements on businesses to actually provide this information to DTSC. In fact, some of DTSC's research related to chemicals in products is through the use of internet search tools.*

Potential enhancement of DTSC's chemical call-in authority: There is current legislation, SB 502 (Allen) that has passed the Senate and is pending referral in the Assembly and would grant DTSC expanded authority. This would enable DTSC to require manufacturers to provide specific information including: information on ingredient chemical identity, concentration, and functional use; existing information, if any, related to the use of the products by children, pregnant women, or other sensitive populations; and, data on state product sales, or national product sales in the absence of state product sales data. *It is important to note, that a similar effort to grant DTSC this same authority was attempted in SB 392 (Allen) from the 2019-2020 session. SB 392 died on the Assembly Third Reading File. Additionally, the opposition to AB 2247 suggests that the authority in SB 502 is preferable to this bill; none of the groups opposed to this bill are supporting SB 502.*

Proposed action by the United States Environmental Protection Agency (US EPA) on reporting PFAS: On June 27, 2021, the US EPA announced a proposed rule for reporting and recordkeeping requirements for PFAS. The US EPA proposes to require certain persons that manufacture (including import) or have manufactured PFAS in any year since January 1, 2011, to electronically report information regarding PFAS uses, production volumes, disposal, exposures, and hazards. US EPA is requesting public comment on all aspects of this proposed rule and has also identified items of particular interest for public input. In addition to fulfilling statutory obligations under the Toxic Substances Control Act (TSCA), this document will enable US EPA to better characterize the sources and quantities of manufactured PFAS in the United

States. *AB 2247 seems consistent with the recent US EPA action and if the proposed rule becomes final, it could make it easier for companies to report the information required under AB 2247 since they will have had to provide that information to the US EPA. Additionally, the database envisioned under AB 2247 could also assist US EPA in verifying compliance with their rule, if finalized.*

Interstate Chemicals Clearinghouse (ICC): The ICC is an association of state, local, and tribal governments that promotes a clean environment, healthy communities, and a vital economy through the development and use of safer chemicals and products. The goals of the ICC are to: avoid duplication and enhance efficiency and effectiveness of agency initiatives on chemicals through collaboration and coordination; build governmental capacity to identify and promote safer chemicals and products; and, ensure that agencies, businesses, and the public have ready access to high quality and authoritative chemicals data, information, and assessment methods.

The functions of the ICC include: supporting health and environmental agencies with development and implementation of programs to promote use of safer chemicals and products; supporting the development of alternatives assessment methods and identification of safer alternatives; sharing data and information on use, hazard, exposure, and alternatives; sharing strategies and outcomes on chemicals prioritization initiatives; building the capacity of agencies by sharing materials, strategies, and trainings; and, assisting agencies in meeting the relevant information needs of businesses, consumers, and the public.

The ICC is a program of the Northeast Waste Management Officials' Association (NEWMOA). NEWMOA provides management and staff support for ICC and serves as its fiscal agent. The ICC has Board of Directors to oversee ICC programs and activities, conduct strategic planning, set priorities and establish the annual workplan, establish the budget and spending priorities, and manage other critical matters affecting the ICC. The Board of Directors meets a minimum of two times per year with the ICC Council and may meet additional times with or without the Council.

The ICC has established the ICC Council to support the mission and goals of the ICC and to provide a forum for collaboration and sharing professional advice and expertise among representatives of the ICC members, supporting members and the Board of Directors. The functions of the ICC Council include: providing a venue for discussions and exchange among ICC Members, supporting members, and the Board of Directors; recommending priorities and focus areas for ICC workgroups, programs, and activities; assisting with recruiting members for ICC workgroups and participate in workgroup activities; assisting with planning ICC events and promoting ICC initiatives; sharing information on international, federal, state, tribal, and local chemical policies and proposals; sharing technical information resources and databases related to chemicals in commerce and identifying technical expertise related to focus areas; and, assisting with funding ICC activities

Current ICC members include:

1. California Environmental Protection Agency
2. Connecticut Department of Energy and Environmental Protection
3. King County Local Hazardous Waste Management Program
4. Maine Department of Environmental Protection

5. Massachusetts Department of Environmental Protection
6. Metro (Portland, OR)
7. Minnesota Department of Health
8. Minnesota Pollution Control Agency
9. New York State Department of Environmental Conservation
10. Oregon Department of Environmental Quality
11. Oregon Health Authority
12. San Francisco Department of the Environment
13. Vermont Department of Health
14. Washington Department of Ecology

Who would use the information being disclosed in the bill? An important question is who would use the database being created by the bill that contains information about manufacturers of products with PFAS in California and which products sold in California contain PFAS. The first group of interested parties are likely local, state, and federal regulators who would likely be very interested in this information. Businesses would also be interested, as it is possible that some manufacturers either receive parts of their product from a supplier or use a lubricating or other cleaning product that may contain PFAS and that they are unaware of. Having this information could help businesses make informed choices when choosing which products to sell or suppliers to use.

Many products containing PFAS have been banned. Which products/uses remain? According to the 2020 paper "An overview of the uses of per- and polyfluoroalkyl substances (PFAS)" by Glüge and colleagues in *Environmental Science: Processes and Impacts*, the possible uses of PFAS include, but are not limited to:

- The production of chlorine and caustic soda;
- Cable and wire insulation;
- Chrome, nickel, copper, and tin plating;
- Manufacture of basic metals and fabricated metal products;
- Cleaning of metal surfaces;
- Separation of plastic mould and moulded material;
- Antifoaming agent
- Ammunition
- Automotive waxes, windshield wiper fluid, engine oil coolers;
- Cleaning compositions for hard surfaces, carpet and upholstery cleaners, dry cleaning fluids;
- Etching and polishing of glass, surface treatments for glass;

- Manufacture of genuine or synthetic leather;
- Lubricants and greases;
- Manufacturing of paper;
- Insecticide against ants and cockroaches;
- Sealants, silicone rubber seals, and adhesives; and,
- Ski wax, sailing boat equipment, and fishing lines.

This bill: AB 2247 seeks to require public disclosure for anyone that manufactures PFAS in California or that sells a product or product component containing regulated PFAS in California. In addition to being "forever chemicals," meaning once they are produced they will persist in the environment [forever], they also cause serious health effects in humans. The proponents contend that there are uses of PFAS that are "essential," and that PFAS may be used in many products or manufacturing processes, but we just do not know where or in what products. It is difficult to determine if the use of PFAS is essential or not or if there is an exposure pathway to human health or the environment if we do not know where or how the PFAS is being used. The Legislature has enacted several bans of products containing PFAS and in doing so determined that these uses are not essential. The information being sought in AB 2247 will be useful for state, local and federal regulators as well as informative for future Legislatures.

Issues for consideration: The bill is attempting to capture a large volume of information on PFAS and that is a complicated task. The author and stakeholders will likely be discussing some ways to improve or further clarify the bill such as:

- Clarifying that the ICC will be creating the database of PFAS and not DTSC;
- Looking at the definition of "regulated PFAS". The definition currently does not have any exemptions and several industries are making a case to the author for an exemption. Additionally, this definition includes a product that has PFAS at or above the quantification limit. This is a phrase not defined in statute and may benefit from further clarification.
- Timeframes in the bill. Is one year enough time for the ICC to develop the database contemplated in the bill? Also, given the complexities of the supply chain, and the fact that some product manufacturers or sellers of products containing regulated PFAS may not know if their product contains PFAS, is 6 months from the creation of the database enough time for them to provide this information to the ICC?

Arguments in Support: According to the California Association of Sanitation Agencies, the California Municipal Utilities Association, and the League of California Cities,

"This is important and necessary information that will inform state and local decision making regarding the management of PFAS in our watersheds and the environment. Our coalition represents a variety of political subdivisions in the state including cities, counties, special districts engaged in the provision of water and wastewater services in California's local communities.

Per- and Polyfluoroalkyl substance (PFAS) have recently become a topic of public concern, due to their high mobility and resistance to breaking down naturally in the environment, as well as the persistent detection of PFAS compounds in people's bodies. The State is comprehensively investigating levels of PFAS in our environment, with a particular focus on water and wastewater resources. While significant progress is being made towards identifying pathways of PFAS in our water and sewersheds, additional information is needed for agencies to be able to make efficient management decisions: local water and wastewater agencies need to know what exactly they are looking for in order to implement effective source reduction policies to limit PFAS inputs into our systems. AB 2247 would allow us to use the PFAS disclosure data required from manufacturers of PFAS or products containing PFAS to optimize pollution prevention programs at the local level through our local pre-treatment programs, and this information would generate consumer awareness about the chemicals used in everyday products and how they impact the environment. We need data to support practical and cost effective management solutions, and AB 2247 is an important first step towards this end goal.

It's important to note that PFAS chemicals are both ubiquitous and indestructible. Without better information about sources of PFAS to support source control, local water management options are limited and costly, leading to affordability concerns for the delivery of essential public services. In some cases PFAS can be removed from water and wastewater at the end of the cycle through advanced treatment technology. However, there is no technologically feasible method for the large-scale destruction of PFAS compounds. Instead, once removed, PFAS residuals are merely displaced and transferred to another waste stream and typically cycle back through the waste management process."

Arguments in Opposition: According to a coalition in opposition, including the California Chamber of Commerce, the Chemical Industry Council, and the Household & Commercial Products Association, "Collectively, we support the responsible production, use and management of fluorinated substances, including regulatory requirements that are protective of human health and the environment, taking into consideration the diversity of physical and chemical properties and the environmental and health profiles of these substances.

With respect to AB 2247, we have several concerns including:

- An overly broad definition of PFAS that does not consider differing health/safety profiles, uses or potential for exposure.
- Overlap and redundancy with new PFAS reporting requirements underway at the US EPA.
- Ability for DTSC to address these types of issues under existing authority and the potential for expanded authority under legislation (SB 502 – Allen) currently moving in the Legislature.
- Lack of clarity on how this information will be presented to the public to ensure information is presented in an unbiased, scientifically sound manner that does not cause unnecessary concern.
- Lack of any confidential business information/trade secret protections.
- Impractical implementation timelines."

According to the Animal Health Institute, writing in an "oppose unless amended" position, "On behalf of the Animal Health Institute (AHI), respectfully I am writing to request animal medicines, including drugs, vaccines, pesticide products and diagnostics (collectively, veterinary medicinal products or VMPs) be exempt from AB 2247. Unfortunately, without this exemption AHI must be oppose unless amended to AB 2247. The definition of PFAS in the bill is very broad and will likely lead to unintended and potentially farreaching consequences. Not only

would it include raw materials and process chemicals used to manufacture VMPs, certain active pharmaceutical ingredients (APIs) in these VMPs would also be considered as PFAS since they contain fluorine. These raw materials, process chemicals, and/or APIs are critical to veterinary medicinal products, and due to the unique and beneficial biochemical properties of fluorine (e.g., replacing a hydrogen atom with a fluorine atom can increase the therapeutic index of a drug), finding a direct substitute is virtually impossible. While we understand that this bill only requires reporting, our experience shows such data collection, especially without appropriate context, can lead to further constraints or misuse of the information. VMPs are already subject to a thorough and rigorous regulatory review by the U.S. Food and Drug Administration under the Federal Food, Drug and Cosmetic Act, by the U.S. Department of Agriculture under the Virus, Serum, Toxins Act, and by the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act. They can only enter the market after successful completion of a scientific assessment, including evaluation of safety and an environmental assessment, and approval by the agency. It is critical for animal health and public health that substances used in or for veterinary medicines be differentiated from high volume industrial chemicals and not subject to the same requirements."

Related legislation:

1. AB 1817 (Ting). Prohibits, beginning January 1, 2024, a person from distributing, selling, or offering for sale in the state a textile article, as defined, that contains regulated PFAS, and requires a manufacturer to use the least toxic alternative when removing regulated PFAS in textile articles to comply with the provisions of this bill. This bill is pending action on the Assembly Floor.
2. AB 1200 (Ting, Chapter 503, Statutes of 2021). Prohibits, commencing January 1, 2023, the sale of food packaging that contains PFAS; requires, commencing January 1, 2024, cookware manufacturers to label their product if it contains an intentionally added chemical on specified lists; and prohibits, commencing January 1, 2023, for the internet and January 1, 2024, for the cookware package, a cookware manufacturer from making a claim that cookware is free of a chemical, unless no chemical from that chemical class is intentionally added to the cookware.
3. AB 652 (Freidman, Chapter 500, Statutes of 2021). Prohibits, on or after July 1, 2023, a person from selling or distributing in commerce any new juvenile products that contain PFAS.
4. SB 1044 (Allen, Chapter 308, Statutes of 2020). Prohibits the manufacture, sale, distribution, and use of firefighting foam containing PFAS chemicals by January 1, 2022, with some exceptions, and requires notification of the presence of PFAS in the protective equipment of firefighters.
5. SB 1056 (Portantino, 2020). Would have required the State Water Board to establish an analytical laboratory method that can be used as a tool to assess the extent of PFAS contamination in drinking water, surface water, groundwater, and wastewater. This bill was held in the Senate Environmental Quality Committee.

6. AB 756 (C. Garcia, Chapter 162, Statutes of 2019). Authorizes the State Water Board to order one or more public water systems to monitor for PFAS and requires municipalities to notify consumers for PFAS detected above notification levels.
7. AB 841 (Ting, Chapter 372, Statutes of 2019). As heard by the Assembly, would have required OEHHA to assess PFAS substances, especially as they might be found in drinking water, to determine which might pose a potential risk to human health. The contents of this bill were deleted in the Senate and amended with unrelated content.
8. AB 958 (Ting, 2018). Would have required a manufacturer of food packaging or cookware sold in the state to visibly disclose on an exterior location of the food packaging or cookware packaging a specified statement relating to the presence of PFAS in the product. This bill was held on the Senate Floor.
9. SB 1313 (Corbett, 2008). Would have prohibited the manufacture, sale, or distribution of any food contact substance, as defined, which contains perfluorinated compounds, as defined, in any concentration exceeding 10 parts per billion. This bill was vetoed by Governor Arnold Schwarzenegger whose veto message said, "I have signed AB 1879 (Feuer) and SB 509 (Simitian) which mark the beginning of California's historic Green Chemistry Initiative. It is within this process that chemicals like PFCs should be addressed."

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Sanitation Agencies (CASA) (Co-Sponsor)
 Environmental Working Group (Co-Sponsor)
 Clean Water Action (Co-Sponsor)
 Active San Gabriel Valley
 Alliance of Nurses for Healthy Environments
 Association of California Water Agencies (ACWA)
 Ban Sup (Single Use Plastic)
 Bay Area Pollution Prevention Group
 Breast Cancer Over Time
 Breast Cancer Prevention Partners
 California Coastkeeper Alliance
 California Environmental Voters
 California Indian Environmental Alliance
 California Municipal Utilities Association
 California Product Stewardship Council
 CALPIRG, California Public Interest Research Group
 Camarillo Sanitary District
 Camarillo; City of
 Carpinteria Sanitary District
 Center for Biological Diversity
 Center for Environmental Health
 Center for Food Safety; the
 Center for Oceanic Awareness, Research, & Education
 Center for Public Environmental Oversight
 Central California Asthma Collaborative

Central Contra Costa Sanitary District
Central Marin Sanitation Agency
City of Camarillo
City of Roseville
City of Santa Rosa
City of Thousand Oaks
Clean Production Action
Community Water Center
Consumer Federation of America
Consumer Federation of California
Crestline Sanitation District
Defend Our Health (formerly Environmental Health Strategy Center)
Delta Diablo
Dublin San Ramon Services District
East Bay Dischargers Authority
East Bay Municipal Utility District
Eastern Municipal Water District
Educate.advocate.
Elsinore Valley Municipal Water District
Erin Brockovich Foundation
Families Advocating for Chemical and Toxics Safety
Friends Committee on Legislation of California
Friends of The Earth U.S.
Goleta Sanitary Water Resource Recovery District
Green Science Policy Institute
Heal the Bay
Indivisible Alta Pasadena
Integrated Resource Management
Las Gallinas Valley Sanitary District
Las Virgenes Municipal Water District
League of California Cities
Leucadia Wastewater District
Los Angeles County Sanitation Districts
Made Safe
Mt. View Sanitary District
National Association of Environmental Medicine (NAEM)
National Resources Defense Council
National Stewardship Action Council
Nontoxic Neighborhoods
Northern California Recycling Association
Olivenhain Municipal Water District
Orange County Sanitation District
Oro Loma Sanitary District
Physicians for Social Responsibility - Los Angeles
Plastic Oceans International
Plastic Pollution Coalition
Rancho California Water District
Republic Services - Western Region
Responsible Purchasing Network

Rethink Disposable
Sacramento Regional County Sanitation District
San Francisco Bay Physicians for Social Responsibility
San Francisco Baykeeper
San Francisco Public Utilities Commission
San Jose; City of
Save Our Shores
Save the Albatross Coalition
Seventh Generation Advisors
Sierra Club California
South Tahoe Public Utility District
Surfrider Foundation
Synagro Technologies
The 5 Gyres Institute
Town of Windsor - Public Works
Truckee Sanitary District
Upstream
Vallejo Flood and Wastewater District
WateReuse Association
West County Wastewater District
Western Municipal Water District
Wholly H2O
Wishtoyo Chumash Foundation
Worksafe
Zero Waste USA

Opposition

Advanced Medical Technology Association (ADVAMED)
Air Conditioning, Heating and Refrigeration Institute
Alliance for Automotive Innovation
American Chemistry Council
American Coatings Association
American Forest & Paper Association
Animal Health Institute
Association of Home Appliance Manufacturers
California Chamber of Commerce
California Manufacturers & Technology Association
Chemical Industry Council of California
Consumer Technology Association
Household and Commercial Products Association
Industrial Environmental Association
Juvenile Products Manufacturers Association
National Association of Chemical Distributors
National Electrical Manufacturers Association (NEMA)
Pine Chemicals Association International
Rockwell Automation
The Toy Association

Analysis Prepared by: Josh Tooker / E.S. & T.M. /