

AMENDED IN ASSEMBLY APRIL 4, 2024

AMENDED IN ASSEMBLY APRIL 1, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 2515

Introduced by Assembly Member Papan

February 13, 2024

An act to add Article 15 (commencing with Section 25258) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2515, as amended, Papan. Menstrual products: perfluoroalkyl and polyfluoroalkyl substances (PFAS).

The Hazardous Waste Control Law regulates the use and disposal of hazardous materials. Existing law permits the Department of Toxic Substances Control or any local officer or agency authorized to enforce the Hazardous Waste Control Law to require specified parties to furnish and transmit certain information relating to hazardous substances, hazardous wastes, and hazardous materials. A violation of the Hazardous Waste Control Law is a crime.

Existing law, beginning January 1, 2025, prohibits a person or entity from manufacturing, selling, delivering, holding, or offering for sale in commerce any cosmetic product that contains intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS), as defined.

This bill would similarly prohibit any person from manufacturing, distributing, selling, or offering for sale in the state any menstrual products that contain regulated PFAS, as defined. The bill would authorize the Department of Toxic Substances Control to adopt guidance

or regulations, as specified, for the purposes of implementing and enforcing these provisions. ~~The bill would exempt the guidance and regulations from the Administrative Procedure Act.~~ The bill would require the department to issue guidance related to testing for regulated PFAS in menstrual ~~products.~~ *products and would exempt that guidance from the Administrative Procedure Act.* The bill would authorize the department to issue a cease and desist order to a manufacturer of a menstrual product under specified circumstances. The bill would make a violation of these provisions punishable by civil penalties, as specified, and would authorize the Attorney General by request of the department, a city attorney, a county counsel, or a city prosecutor to bring an action to enforce these provisions. The bill would create, and would require all moneys collected from penalties to be deposited in, the T.A.M.P.O.N. Act Fund. The bill would also authorize any person to bring an action in superior court for any injury suffered as a result of a product sold in violation of this prohibition.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 Take All Menstrual Product-PFAS Out Now (T.A.M.P.O.N.) Act.

3 SEC. 2. Article 15 (commencing with Section 25258) is added
4 to Chapter 6.5 of Division 20 of the Health and Safety Code, to
5 read:

6
7 Article 15. Menstrual Products
8

9 25258. For the purposes of this article, the following definitions
10 apply:

11 (a) “Department” means the Department of Toxic Substances
12 Control.

1 (b) “Menstrual product” means a product used to collect
2 menstruation and vaginal discharge, including, but not limited to,
3 tampons, pads, sponges, menstruation underwear, disks, and
4 menstrual cups, whether disposable or reusable.

5 (c) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS”
6 means a class of fluorinated organic chemicals containing at least
7 one fully fluorinated carbon atom.

8 (d) “Regulated perfluoroalkyl and polyfluoroalkyl substances
9 or PFAS” means either of the following:

10 (1) Commencing January 1, 2025, PFAS that a manufacturer
11 has intentionally added to a product and that have a functional or
12 technical effect in the product, including the PFAS components
13 of intentionally added chemicals and PFAS that are intentional
14 breakdown products of an added chemical that also have a
15 functional or technical effect in the product.

16 (2) Commencing January 1, 2027, the presence of PFAS in a
17 product or product component at or above 10 parts per million, as
18 measured in total organic fluorine.

19 25258.1. ~~(a)~~ The department may adopt regulations or guidance
20 as necessary for the purpose of implementing, administering, and
21 enforcing this article.

22 ~~(b) Notwithstanding any other law, regulations or guidance~~
23 ~~adopted to implement this article are not subject to the requirements~~
24 ~~of the Administrative Procedure Act (Chapter 3.5 (commencing~~
25 ~~with Section 11340) of Part 1 of Division 3 of Title 2 of the~~
26 ~~Government Code).~~

27 25258.2. (a) The department shall issue guidance as it relates
28 to testing for the presence of regulated PFAS in menstrual products.

29 (b) *Notwithstanding any other law, guidance adopted to*
30 *implement this section is not subject to the requirements of the*
31 *Administrative Procedure Act (Chapter 3.5 (commencing with*
32 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
33 *Code).*

34 25258.3. A person shall not manufacture, distribute, sell, or
35 offer for sale in the state a menstrual product that contains regulated
36 perfluoroalkyl and polyfluoroalkyl substances or PFAS.

37 25258.4. If the department finds that a menstrual product
38 contains regulated PFAS, and reasonably suspects that imminent
39 harm would result from the continued sale of the product, the

1 department may issue a cease and desist order to the manufacturer
2 of the menstrual product.

3 25258.5. (a) Any person may bring a civil action in a court of
4 competent jurisdiction for any injury suffered as a result of a
5 product sold in violation of this article.

6 (b) Exemplary damages, as provided for in Section 3294 of the
7 Civil Code, may also be awarded in any action brought pursuant
8 to this section.

9 25258.6. (a) A violation of this article is punishable by a civil
10 penalty not to exceed five thousand dollars (\$5,000) per day.

11 (b) A second and subsequent violation of this article is
12 punishable by a civil penalty not to exceed ten thousand dollars
13 (\$10,000) per day.

14 (c) The court may grant injunctive relief in any action brought
15 pursuant to this section.

16 (d) Actions may be brought pursuant to this section by the
17 Attorney General in the name of the people of the state by the
18 request of the department, by a city attorney, by a county counsel,
19 or by a city prosecutor in a city or city and county having a
20 full-time city prosecutor.

21 (e) A prevailing plaintiff bringing an action pursuant to this
22 article shall be awarded attorney’s fees and costs by the court.

23 (f) Moneys from penalties collected pursuant to this section
24 shall be deposited in the T.A.M.P.O.N. Act Fund, which is hereby
25 created in the State Treasury. The moneys deposited in the fund
26 shall be available, upon appropriation by the Legislature, for
27 expenditure by the department exclusively for the support of the
28 department in carrying out the duties and responsibilities under
29 this article.

30 SEC. 3. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

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