

2024 -- H 7619

=====
LC004641
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

—————
A N A C T

RELATING TO HEALTH AND SAFETY -- TOXIC PACKAGING REDUCTION ACT

Introduced By: Representatives Cortvriend, Casimiro, Speakman, McEntee, and Nardone

Date Introduced: February 15, 2024

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-18.13-2, 23-18.13-3 and 23-18.13-4 of the General Laws in
2 Chapter 23-18.13 entitled "Toxic Packaging Reduction Act" are hereby amended to read as follows:

3 **23-18.13-2. Findings.**

4 The general assembly has found and declares that:

5 (1) The management of solid waste can pose a wide range of hazards to public health and
6 safety and to the environment;

7 (2) Packaging comprises a significant percentage of the overall solid waste stream;

8 (3) The presence of heavy metals and both perfluoroalkyl and polyfluoroalkyl substances
9 (PFAS) in packaging is a part of the total concern in light of their likely presence in emissions or
10 ash when packaging is incinerated, or in leachate when packaging is landfilled;

11 (4) Lead, mercury, cadmium, hexavalent chromium, ~~and~~ PFAS, [polyvinyl chloride and](#)
12 [polystyrene](#) on the basis of available scientific and medical evidence, are of particular concern;

13 [\(5\) Polyvinyl chloride \(PVC\) and polystyrene are difficult to recycle, with tons of PVC and](#)
14 [polystyrene being buried in the landfill each year. The manufacture of PVC and polystyrene](#)
15 [includes carcinogenic compounds and toxic additives that negatively impact the environment and](#)
16 [public health.](#)

17 ~~(5)~~(6) It is desirable as a first step in reducing the toxicity of packaging waste to eliminate
18 the addition of these [chemicals and materials](#) ~~heavy metals and PFAS~~ to packaging; and

19 ~~(6)~~(7) The intent of this chapter is to achieve this reduction in toxicity without impeding or

1 discouraging the expanded use of post-consumer materials in the production of packaging and its
2 components.

3 **23-18.13-3. Definitions.**

4 (1) “Department” means the department of environmental management.

5 (2) “Distribution” means the practice of taking title to a package(s) or packaging
6 component(s) for promotional purposes or resale. Persons involved solely in delivering a
7 package(s) or packaging component(s) on behalf of third parties are not considered distributors.

8 (3) “Distributor” means any person, firm, or corporation who or that takes title to goods
9 purchased for resale.

10 (4) “Food packaging” means any package or packaging component that is applied to or in
11 direct contact with any food or beverage.

12 (5) “Incidental presence” means the presence of a regulated metal as an unintended or
13 undesired ingredient of a package or packaging component.

14 (6)(i) “Intentional introduction of PFAS” means deliberately utilizing PFAS in the
15 formulation of a package or packaging component where its continued presence is desired in the
16 final package or packaging component to provide a specific characteristic, appearance, or quality.

17 (ii) The use of a regulated chemical as a processing agent, mold release agent, or
18 intermediate is considered intentional introduction for the purposes of this chapter where the
19 regulated chemical is detected in the final package or packaging component. (The provisions of
20 this subsection shall take effect on July 1, 2027.)

21 (iii) *[Expires July 1, 2027.]* The use of post-consumer recycled materials as feedstock for
22 the manufacture of new packaging materials, where some portion of the post-consumer package or
23 packaging component may contain amounts of the regulated chemicals but is neither desired nor
24 deliberate, is not considered intentional introduction for the purposes of this chapter where said
25 final package or packaging component is in compliance with § 23-18.13-4(d). (The provisions of
26 subsection (6)(iii) of this section shall sunset on July 1, 2027).

27 (7)(i) “Intentional introduction of regulated materials” means the act of deliberately
28 utilizing a regulated metal in the formation of a package or packaging component where its
29 continued presence is desired in the final package or packaging component to provide a specific
30 characteristic, appearance, or quality.

31 (ii) The use of a regulated metal as a processing agent or intermediate to impart certain
32 chemical or physical changes during manufacturing, whereupon the incidental retention of a residue
33 of a regulated metal in the final package or packaging component is neither desired nor deliberate,
34 is not considered intentional introduction for the purposes of this chapter where the final package

1 or packaging component is in compliance with § 23-18.13-4(c).

2 (iii) The use of post-consumer recycled materials as feedstock for the manufacture of new
3 packaging materials where some portion of the recycled materials may contain amounts of the
4 regulated metals is not considered intentional introduction for the purposes of this chapter where
5 the new package or packaging component is in compliance with § 23-18.13-4(c).

6 (8) “Manufacturer” means any person, firm, association, partnership, or corporation who
7 sells, offers for sale, or offers for promotional purposes packages or packaging components which
8 shall be used by any other person, firm, association, partnership, or corporation to package a
9 product(s).

10 (9) “Manufacturing” means physical or chemical modification of a material(s) to produce
11 packaging or packaging components.

12 (10) “Package” means a container providing a means of marketing, protecting or handling
13 a product and shall include a unit package, an intermediate package and a shipping container as
14 defined in ASTM D996. “Package” also means and includes such unsealed receptacles as carrying
15 cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs.

16 (11) “Packaging component” means any individual assembled part of a package including,
17 but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior
18 strapping, coatings, closures, inks and labels. Tin-plated steel that meets the American Society for
19 Testing and Materials (ASTM) specification A-623 is considered a single package component.
20 Electro-galvanized coated steel and hot-dipped coated galvanized steel that meets the ASTM
21 specifications A-525 and A-879 shall be treated in the same manner as tin-plated steel.

22 (12) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means all members of the
23 class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

24 (13) “Post-consumer recycled material” means a material generated by households or by
25 commercial, industrial, and institutional facilities in their role as end-users of the product that can
26 no longer be used for its intended purpose, including returns of material from the distribution chain.
27 Refuse-derived fuel or other material that is destroyed by incineration is not a recycled material.

28 (14) "Reusable packaging" means packaging designed and manufactured to maintain its
29 shape and structure and to be materially durable for repeated sanitizing and use.

30 ~~(14)~~(15) “Substitute material” means a material used to replace lead, cadmium, mercury,
31 hexavalent chromium, PFAS, or other regulated chemical in a package or packaging component.

32 **23-18.13-4. Prohibition — Schedule for removal of incidental amounts.**

33 (a) No package or packaging component shall be offered for sale or for promotional
34 purposes by its manufacturer or distributor in the state, which includes, in the package itself or in

1 any packaging component, inks, dyes, pigments, adhesives, stabilizers, or any other additives, any
2 lead, cadmium, mercury, or hexavalent chromium that has been intentionally introduced as an
3 element during manufacturing or distribution as opposed to the incidental presence of any of these
4 elements.

5 (b) No product shall be offered for sale or for promotional purposes by its manufacturer or
6 distributor in the state in a package which includes, in the package itself or in any of its packaging
7 components, inks, dyes, pigments, adhesives, stabilizers, or any other additives, any lead, cadmium,
8 mercury, or hexavalent chromium that has been intentionally introduced as an element during
9 manufacturing or distribution as opposed to the incidental presence of any of these elements.

10 (c) The sum on the concentration levels of lead, cadmium, mercury, and hexavalent
11 chromium present in any package or packaging component shall not exceed 100 parts per million
12 by weight (0.01%).

13 (d) Effective ~~July 31, 2024~~ January 1, 2025, no food package to which PFAS have been
14 intentionally introduced during manufacturing or distribution in any amount shall be offered for
15 sale or for promotional purposes by its manufacturer or distributor in the state.

16 (e) Effective January 1, 2026, no person, including, but not limited to, a manufacturer,
17 shall sell or distribute into commerce any packaging, packaging component or reusable packaging
18 that contains polyvinyl chloride (PVC) or polystyrene. For purposes of this section, polyvinyl
19 chloride shall include polyvinylidene chloride and polystyrene shall include expanded polystyrene.

20 ~~(e)~~(f) No substitute material used to replace a chemical regulated by this chapter in a
21 package or packaging component may be used in a quantity or manner that creates a hazard as great
22 as or greater than the hazard created by the chemical regulated by this act. The certificate of
23 compliance required by § 23-18.13-6 shall require an assurance to this effect.

24 ~~(f)~~(g) **Interstate clearinghouse.** The department is authorized to participate in the
25 establishment and implementation of a regional or national, multi-state clearinghouse to assist in
26 carrying out the requirements of this chapter and to help coordinate reviews of the regulatory
27 applicability, certificates of compliance, education and outreach activities, and any other related
28 functions. The clearinghouse may also maintain reports on the effectiveness of the program,
29 certificates of analysis and compliance for product packaging.

30 SECTION 2. This act shall take effect upon passage.

=====
LC004641
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- TOXIC PACKAGING REDUCTION ACT

1 This act updates the existing Toxic Packaging Act by delaying the ban on PFAS in
2 processing agents, until July 1, 2027, and also expands the law by banning PVC and polystyrene
3 in packaging. The act also grants DEM additional time to write rules and regulations that ban PFAS
4 in food packaging.

5 This act would take effect upon passage.

=====
LC004641
=====