



General Assembly

Substitute Bill No. 926

January Session, 2021



**AN ACT CONCERNING THE PRESENCE OF PFAS IN CERTAIN
CONSUMER PACKAGING.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-255h of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2021*):

3 As used in sections 22a-255g to 22a-255m, inclusive, as amended by
4 this act:

5 (1) "Package" means any container, produced either domestically or
6 in a foreign country, used for the marketing, protecting or handling of a
7 product and includes a unit package, an intermediate package and a
8 shipping container, as defined in the American Society of Testing and
9 Materials specification D966. "Package" also means any unsealed
10 receptacle such as a carrying case, crate, cup, pail, rigid foil or other tray,
11 wrapper or wrapping film, bag or tub.

12 (2) "Distributor" means any person who takes title or delivery from
13 the manufacturer of a package, packaging component or product,
14 produced either domestically or in a foreign country, to use for
15 promotional purposes or to sell.

16 (3) "Packaging component" means any part of a package, produced

17 either domestically or in a foreign country, including, but not limited to,
18 any interior or exterior blocking, bracing, cushioning, weatherproofing,
19 exterior strapping, coating, closure, ink, label, dye, pigment, adhesive,
20 stabilizer or other additive. Tin-plated steel that meets specification
21 A623 of the American Society of Testing and Materials shall be
22 considered as a single packaging component. Electro-galvanized coated
23 steel and hot dipped coated galvanized steel that meets the American
24 Society of Testing and Materials specifications A653, A924, A879 and
25 A591 shall be treated in the same manner as tin-plated steel.

26 (4) "Commissioner" means the Commissioner of Energy and
27 Environmental Protection or an authorized agent or designee of the
28 commissioner.

29 (5) "Department" means the Department of Energy and
30 Environmental Protection.

31 (6) "Intermediate package" means a wrap, box, or bundle which
32 contains two or more unit packages of identical items.

33 (7) "Unit package" means the first tie, wrap, or container applied to a
34 single item, a quantity of the same item, a set, or an item with all its
35 component parts, which constitutes a complete and identifiable package
36 containing the unit of issue of a product for ultimate use.

37 (8) "Shipping container" means a container which is sufficiently
38 strong to be used in commerce for packing, storing and shipping
39 commodities.

40 (9) "Container" means a receptacle capable of closure.

41 (10) "Intentionally introduced" means deliberately utilized regulated
42 metal, PFAS or other regulated chemical in the formulation of a package
43 or packaging component where the continued presence of such metal or
44 chemical is desired in the final package or packaging component to
45 provide a specific characteristic, appearance or quality. The use of a
46 regulated metal or regulated chemical as a processing agent or

47 intermediate to impart certain chemical or physical changes during
48 manufacturing where the incidental retention of a residue of said metal
49 in the final package or packaging component is neither desired nor
50 deliberate shall not be considered intentional introduction for the
51 purposes of this section where such package or component is in
52 compliance with subsection (c) of section 22a-255i, as amended by this
53 act. The use of a regulated chemical as a processing agent, mold release
54 agent or intermediate is considered intentional introduction for the
55 purposes of this section where the regulated chemical is detected in the
56 final package or packaging component. The use of post-consumer
57 recycled materials as feedstock for the manufacture of new packaging
58 materials where some portion of the recycled materials may contain
59 amounts of the regulated metals or regulated chemicals shall not be
60 considered intentional introduction for the purposes of this section
61 provided the new package or packaging component is in compliance
62 with subsection (c) or (e) of section 22a-255i, as amended by this act, as
63 applicable.

64 (11) "Distribution" means the process for transferring a package or
65 packaging component for promotional purposes or resale. Persons
66 involved solely in delivering a package or packaging component on
67 behalf of third parties shall not be considered distributors.

68 (12) "Manufacturer" means any person producing a package or
69 packaging component as defined in subdivision (3) of this section.

70 (13) "Manufacturing" means the physical or chemical modification of
71 a material to produce packaging or packaging components.

72 (14) "Supplier" means any person, firm, association, partnership or
73 corporation which sells, offers for sale or offers for promotional
74 purposes packages or packaging components which will be used by any
75 other person to package a product.

76 (15) "Alternative" means a substitute process, product, material,
77 chemical, strategy or any combination thereof, that serves a functionally

78 equivalent purpose to another chemical in a package or packaging
79 component.

80 (16) "Chemical" means a substance with a distinct molecular
81 composition or a group of structurally related substances and includes
82 the breakdown products of the substance that form through
83 decomposition, degradation or metabolism of such substance.

84 (17) "Credible scientific evidence" means the results of a study, the
85 experimental design and conduct of which have undergone
86 independent scientific peer review, that are published in a peer-
87 reviewed journal or in a publication of an authoritative federal or
88 international governmental agency, including, but not limited to, the
89 United States Department of Health and Human Services' National
90 Toxicology Program, the Food and Drug Administration, the Centers
91 for Disease Control and Prevention, the United States Environmental
92 Protection Agency, the World Health Organization and the European
93 Union's European Chemicals Agency.

94 (18) "Incidental presence" means the presence of a regulated metal or
95 other regulated chemical as an unintended or undesired ingredient of a
96 package or packaging component.

97 (19) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS"
98 means all members of the class of fluorinated organic chemicals
99 containing at least one fully fluorinated carbon atom.

100 (20) "Persistent, Bioaccumulative and Toxic" or "PBT" substances and
101 "very Persistent and very Bioaccumulative" or "vPvB" substances mean
102 substances meeting the criteria established in Section 1 of Annex XIII to
103 the Registration, Evaluation, Authorisation and Restriction of
104 Chemicals (REACH) Regulation of the European Union (EC) No
105 1907/2006 of the European Parliament and of the Council of 18
106 December 2006, as amended.

107 (21) "Persistent, Mobile and Toxic" or "PMT" substances and "very
108 Persistent and very Mobile" or "vPvM" substances mean substances

109 meeting the criteria established in "REACH: Improvement of guidance
110 and methods for the identification and assessment of PMT/vPvM
111 substances: Final Report." TEXTE 126/2019. Environmental Research of
112 the Federal Ministry for the Environment, Nature Conservation and
113 Nuclear Safety. Project No. (FKZ) 3716 67 416 0, Report No.
114 FB000142/ENG. November 2019.

115 (22) "Post-consumer recycled material" means a material generated
116 by households or by commercial, industrial and institutional facilities as
117 end-users of the product which can no longer be used for its intended
118 purpose, including returns of material from the distribution chain.
119 "Post-consumer recycled material" does not include refuse-derived fuel
120 or other material that is destroyed by incineration.

121 (23) "Recycling" means the process of collecting and preparing
122 recyclable materials and reusing the materials in their original form or
123 using them in manufacturing processes that do not cause the destruction
124 of recyclable materials in a manner that precludes further use.

125 (24) "Substitute material" means a material used to replace lead,
126 cadmium, mercury, or hexavalent chromium, PFAS or other regulated
127 chemicals in a package or packaging component.

128 (25) "Toxic chemical" is a chemical listed as a packaging chemical of
129 high concern pursuant to section 22a-255m, as amended by this act.

130 Sec. 2. Section 22a-255i of the general statutes is repealed and the
131 following is substituted in lieu thereof (*Effective July 1, 2021*):

132 (a) As soon as feasible, but not later than October 1, 1992, no package
133 or packaging component shall be offered for sale or promotional
134 purposes in this state, by its manufacturer or distributor, if it is
135 composed of any lead, cadmium, mercury or hexavalent chromium
136 which has been intentionally introduced during manufacturing or
137 distribution, as opposed to the incidental presence of any of these
138 substances.

139 (b) As soon as feasible, but not later than October 1, 1992, no product
140 shall be offered for sale or promotional purposes, in this state by its
141 manufacturer or distributor, in a package which is composed of any
142 lead, cadmium, mercury or hexavalent chromium which has been
143 intentionally introduced during manufacturing or distribution, as
144 opposed to the incidental presence of any of these substances.

145 (c) No package or packaging component shall be offered for sale or
146 promotional purposes in this state by its manufacturer or distributor if
147 the sum of the incidental concentration levels of lead, cadmium,
148 mercury and hexavalent chromium present in such package or
149 packaging component exceeds the following: Six hundred parts per
150 million by weight, effective October 1, 1992; two hundred fifty parts per
151 million, effective October 1, 1993; and one hundred parts per million by
152 weight, effective October 1, 1994.

153 (d) Concentration levels of lead, cadmium, mercury, and hexavalent
154 chromium shall be determined using the United States Environmental
155 Protection Agency Tests Methods for Evaluating Solid Waste, SW-846,
156 as revised.

157 (e) Not later than October 1, 2023, a manufacturer, supplier or
158 distributor may not offer for sale or for promotional purposes a package
159 or packaging component to which PFAS was introduced during
160 manufacturing or distribution in any amount or that has any detectable
161 PFAS in such package or packaging component. Nothing in this
162 subsection shall be construed to apply to any package or packaging
163 component for any medical device or medical equipment.

164 (f) No material used to replace a chemical regulated by sections 22a-
165 255g to 22a-255m, inclusive, as amended by this act, in a package or
166 packaging component may be used in a quantity or manner that creates
167 a hazard as great as, or greater than, the hazard created by the chemical
168 regulated by sections 22a-255g to 22a-255m, inclusive.

169 Sec. 3. Section 22a-255k of the general statutes is repealed and the

170 following is substituted in lieu thereof (*Effective July 1, 2021*):

171 [No manufacturer or distributor of a product shall be deemed to have
172 violated any provision of sections 22a-255g to 22a-255m, inclusive, if
173 such manufacturer or distributor can show that, in the purchase of a
174 package or packaging component, he relied in good faith on the written
175 assurance of the manufacturer of such packaging or packaging
176 component that such packaging or packaging component met the
177 requirements of section 22a-255i. Such written assurance shall take the
178 form of a certificate of compliance stating that a package or packaging
179 component is in compliance with the requirements of sections 22a-255g
180 to 22a-255m, inclusive, provided if compliance is achieved pursuant to
181 an exemption provided in section 22a-255j, the certificate shall state the
182 specific basis upon which the exemption is claimed. The certificate of
183 compliance shall be signed by an authorized official of the manufacturer
184 or distributor. A manufacturer or distributor of a package or packaging
185 component shall furnish a copy of the certificate of compliance to the
186 commissioner upon his request.]

187 (a) Upon request, a certificate of compliance stating that a package or
188 packaging component is in compliance with the requirements of
189 sections 22a-255g to 22a-255m, inclusive, as amended by this act, shall
190 be furnished by its manufacturer or supplier to the purchaser of the
191 packaging or packaging component. In the event that an exemption is
192 claimed pursuant to section 22a-255j, such certificate of compliance shall
193 state the specific basis upon which the exemption is claimed. Any such
194 certificate of compliance shall be signed by an authorized official of the
195 manufacturing or supplying company. The purchaser shall retain the
196 certificate of compliance for the duration of the use of such package or
197 packaging component. A copy of the certificate of compliance shall be
198 kept on file by the manufacturer or supplier of the package or packaging
199 component. No requirement of this subsection shall be construed to
200 apply to any package or packaging component for any medical device
201 or medical equipment.

202 (b) Certificates of compliance, or copies thereof, shall be furnished to

203 the Commissioner of Energy and Environmental Protection and to
204 members of the public upon request. A manufacturer or supplier may
205 make the certificate of compliance available on such manufacturer's
206 Internet web site or through an authorized representative of such
207 manufacturer, including, but not limited to, a packaging clearinghouse.
208 Any request from a member of the public for any certificate of
209 compliance from the manufacturer or supplier of a package or
210 packaging component shall be: (1) Made in writing, with a copy
211 provided to the commissioner, (2) made specific as to the package or
212 packaging component information requested, and (3) responded to by
213 the manufacturer or supplier not later than sixty days after receipt of
214 such request.

215 (c) If the manufacturer or supplier of the package or packaging
216 component reformulates or creates a new package or packaging
217 component, the manufacturer or supplier shall provide an amended or
218 new certificate of compliance for the reformulated or new package or
219 packaging component to all current purchasers.

220 (d) If there are grounds to suspect that a package is offered for sale in
221 violation of this chapter, the commissioner may request that the
222 manufacturer or distributor of the package provide a certificate of
223 compliance with the applicable provisions of this chapter. Not later than
224 thirty days after receipt of a request under this subsection, the
225 manufacturer or distributor shall: (1) Provide the commissioner with the
226 certificate attesting that the package does not contain a chemical
227 regulated under this chapter, or (2) notify persons who sell the package
228 in this state that the sale of the package is prohibited and provide the
229 commissioner with a copy of the notice and a list of the names and
230 addresses of those persons notified pursuant to this section.

231 Sec. 4. Section 22a-255m of the general statutes is repealed and the
232 following is substituted in lieu thereof (*Effective July 1, 2021*):

233 (a) The commissioner may, in consultation with the other member
234 states of the Toxics in Packaging Clearing House, review the

235 effectiveness of sections 22a-255g to 22a-255m, inclusive, and provide a
236 report based on such review to the Governor and the General Assembly.
237 [The] As indicated in subsection (c) of this section, the report may
238 describe substitutes which manufacturers and distributors of packages
239 and packaging components have used in place of lead, mercury,
240 cadmium and hexavalent chromium, and may contain
241 recommendations concerning (1) other toxic substances contained in
242 packaging that should be added to those regulated under the provisions
243 of sections 22a-255g to 22a-255m, inclusive, in order to further reduce
244 the toxicity of packaging waste, and (2) the advisability of retaining the
245 exemption provided in subdivision (2) of section 22a-255j.

246 (b) For the purpose of gathering information for the review and
247 report described in subsection (a) of this section, the commissioner may
248 inspect and copy the records of any person (1) engaged in the
249 manufacture or distribution of packages or packaging components if
250 such records pertain to the processes by which such packages or
251 packaging components are manufactured, including the nature and
252 amounts of substances utilized, and (2) who produces or supplies
253 materials for the manufacture of packages or packaging components, if
254 such records pertain to the nature and amount of substances in such
255 materials or the identities or locations of purchasers or recipients of such
256 materials. Upon request of the commissioner, any such person shall
257 allow the commissioner to inspect and copy such records or shall
258 provide copies of such records to the commissioner.

259 (c) In accordance with the requirements of this section, the
260 commissioner may periodically revise and publish a list of packaging
261 chemicals of high concern. A chemical may be included on such list if:
262 (1) The chemical is included on the list of chemicals of concern published
263 by the Department of Energy and Environmental Protection on the basis
264 of credible scientific evidence as being (A) a carcinogen, a reproductive
265 or developmental toxicant or an endocrine disruptor, (B) persistent,
266 bioaccumulative and toxic, (C) very persistent and very
267 bioaccumulative, (D) persistent mobile and toxic, or (E) very persistent

268 and very mobile; (2) the commissioner determines that there is strong
 269 credible scientific evidence that the chemical is a reproductive or
 270 developmental toxicant, endocrine disruptor or human carcinogen; or
 271 (3) the commissioner determines that there is strong credible scientific
 272 evidence that the chemical (A) was found through biomonitoring
 273 studies to be present in human blood, human breast milk, human urine
 274 or other human bodily tissues or fluids, (B) was found through sampling
 275 and analysis to be present in packaging, and (C) was added to or is
 276 present in a package.

277 (d) The commissioner may periodically review the list published
 278 pursuant to subsection (c) of this section and shall remove from the list
 279 any packaging chemical of high concern that no longer meets the criteria
 280 contained in subsection (c) of this section. The commissioner may add
 281 to the list additional packaging chemicals of high concern that meet the
 282 criteria of subsection (c) of this section provided such list may not at any
 283 one time include more than ten packaging chemicals of high concern.

284 (e) A packaging chemical of high concern listed pursuant to
 285 subsection (c) of this section shall be considered a toxic chemical. To
 286 fulfill this chapter's goal of reducing the toxicity of packaging waste, the
 287 commissioner may recommend to the joint standing committee of the
 288 General Assembly having cognizance of matters relating to the
 289 environment that such toxic chemical be added to the prohibited
 290 chemicals regulated pursuant to sections 22a-255g to 22a-255m,
 291 inclusive, not later than two years after the date of such
 292 recommendation.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | July 1, 2021 | 22a-255h |
| Sec. 2 | July 1, 2021 | 22a-255i |
| Sec. 3 | July 1, 2021 | 22a-255k |
| Sec. 4 | July 1, 2021 | 22a-255m |

ENV *Joint Favorable Subst.*