

**As Introduced**

**136th General Assembly**

**Regular Session**

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**H. B. No. 743**

**Representatives Troy, Rogers**

**Cosponsors: Representatives Brennan, Piccolantonio, Brownlee, Lett, McNally,  
Miller, J., Russo, Synenberg, Upchurch**

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To amend section 3745.015 and to enact sections 1  
3745.81, 3745.82, 3745.83, 3745.84, 3745.85, 2  
3745.86, and 3745.87 of the Revised Code to 3  
prohibit, with exceptions, the use of 4  
intentionally added PFAS in various products. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3745.015 be amended and sections 6  
3745.81, 3745.82, 3745.83, 3745.84, 3745.85, 3745.86, and 7  
3745.87 of the Revised Code be enacted to read as follows: 8

**Sec. 3745.015.** There is hereby created in the state 9  
treasury the environmental protection fund consisting of money 10  
credited to the fund under division (A) (3) of section 3734.57- 11  
~~and~~, division (E) of section 3714.07, and section 3745.86 of 12  
the Revised Code. The environmental protection agency shall use 13  
money in the fund to pay the agency's costs associated with 14  
administering and enforcing, or otherwise conducting activities 15  
under, this chapter and Chapters 3704., 3734., 3746., 3747., 16  
3748., 3750., 3751., 3752., 3753., 5709., 6101., 6103., 6105., 17  
6109., 6111., 6112., 6113., 6115., 6117., and 6119. of the 18  
Revised Code, including providing compliance assistance to small 19

businesses.	20
<u>Sec. 3745.81. As used in sections 3745.81 to 3745.87 of</u>	21
<u>the Revised Code:</u>	22
<u>(A) "Carpet or rug" means a fabric marketed or intended</u>	23
<u>for use as a floor covering.</u>	24
<u>(B) "Cleaning product" means a finished product used for</u>	25
<u>general cleaning purposes, including any of the following:</u>	26
<u>(1) A polish or floor maintenance product;</u>	27
<u>(2) An air care product labeled for the intended use of</u>	28
<u>enhancing or conditioning the indoor environment by eliminating</u>	29
<u>unpleasant odors or freshening the air;</u>	30
<u>(3) An automotive maintenance product labeled for the</u>	31
<u>intended use of maintaining the appearance of a motor vehicle.</u>	32
<u>"Cleaning product" does not include automotive paint or</u>	33
<u>paint repair products.</u>	34
<u>(C) "Cookware" means durable houseware items intended for</u>	35
<u>direct food contact and used to prepare, dispense, or store</u>	36
<u>food, foodstuffs, or beverages, including pots, pans, grills,</u>	37
<u>baking sheets, baking molds, trays, bowls, and cooking utensils;</u>	38
<u>(D) "Cosmetic" has the same meaning as in section 3715.01</u>	39
<u>of the Revised Code.</u>	40
<u>(E) "Currently unavoidable use" means a use of PFAS that</u>	41
<u>the director of environmental protection has determined by rule</u>	42
<u>to be essential for health, safety, or the functioning of</u>	43
<u>society, and for which alternatives are not reasonably</u>	44
<u>available.</u>	45
<u>(F) "Fabric treatment" means a substance applied to fabric</u>	46

to give the fabric one or more characteristics, including for 47  
stain or water resistance. 48

(G) "Feminine hygiene product" means a disposable or 49  
reusable product to collect menstruation and vaginal discharge, 50  
including tampons, pads, sponges, menstruation underwear, discs, 51  
applicators, and menstruation cups. 52

(H) "Intentionally added" means a PFAS deliberately added 53  
during the manufacture of a product in which the continued 54  
presence of the PFAS is desired or expected in the final product 55  
or one of the product's components. 56

(I) "Juvenile product" means a product designed or 57  
marketed for use by children under twelve years of age, 58  
including a baby or toddler foam pillow; bassinet; bedside 59  
sleeper; booster seat; changing pad; child restraint system for 60  
use in a motor vehicle or aircraft; co-sleeper; crib mattress; 61  
highchair; highchair pad; infant bouncer; infant carrier; infant 62  
seat; infant sleep positioner; infant swing; infant travel bed; 63  
infant walker; nap cot; nursing pad; nursing pillow; play mat; 64  
playpen; play yard; polyurethane foam mat, pad, or pillow; 65  
portable foam nap mat; portable infant sleeper; portable hook-on 66  
chair; soft-sided portable crib; stroller; and toddler mattress 67  
"Juvenile product" does not include an electronic product, 68  
including: 69

(1) Personal computers and any associated equipment; 70

(2) Audio and video equipment; 71

(3) Calculators; 72

(4) Wireless phones; 73

(5) Gaming consoles; 74

(6) Handheld devices incorporating a video screen and any 75  
associated peripheral device such as a mouse, keyboard, power 76  
supply unit, or power cord. 77

(J) "Manufacturer" means: 78

(1) A person, firm, association, partnership, corporation, 79  
organization, combination, or a joint venture that creates, 80  
produces, or assembles a product or whose brand name is affixed 81  
to a product; 82

(2) In the case of a product imported into the United 83  
States, an importer or first domestic distributor of the 84  
product, provided that the entity or person that created, 85  
produced, or assembled the product or whose brand name is 86  
affixed to the product does not have an office or employees in 87  
the United States. 88

(K) "Medical device" has the same meaning as "device" as 89  
set forth in 21 U.S.C. 321. 90

(L) "Per- and polyfluoroalkyl substances" and "PFAS" means 91  
the class of fluorinated organic chemicals containing at least 92  
one fully fluorinated carbon atom. 93

(M) "Product" means an item created, produced, assembled, 94  
packaged, or otherwise prepared for sale to consumers, including 95  
a product component sold or distributed for personal, 96  
residential, commercial, or industrial use, including for use in 97  
making another product. 98

(N) "Product component" means an identifiable part of a 99  
product, regardless of whether the manufacturer of the product 100  
is the manufacturer of the component. 101

(O) "Ski wax" means a lubricant applied to the bottom of a 102

snow runner, including a ski or snowboard, to improve grip or 103  
glide properties, and includes associated tuning products. 104

(P) "Textile furnishings" means a textile product made in 105  
whole or part from a natural or synthetic fiber, yarn, or fabric 106  
that is used as furniture or a decorative accessory. 107

(Q) "Upholstered furniture" means furniture that is wholly 108  
or partially stuffed with a filling material. 109

**Sec. 3745.82.** (A) The director of environmental protection 110  
shall adopt rules in accordance with Chapter 119. of the Revised 111  
Code that require a manufacturer to submit the following 112  
information to the director for a product that contains an 113  
intentionally added PFAS: 114

(1) A brief description of the product, including a 115  
universal product code, stock keeping unit, or other numeric 116  
code assigned to the product; 117

(2) The purpose for which the PFAS is used in the product; 118

(3) The amount of each PFAS in the product, identified by 119  
its chemical abstracts service registry number and reported as 120  
an exact quantity determined using commercially available 121  
analytical methods, or reported as falling within a range 122  
approved for reporting purposes by the director; 123

(4) The name and address of the manufacturer, and the 124  
name, address, and telephone number of a contact person for the 125  
manufacturer; 126

(5) Any additional information requested by the director. 127

(B) Not later than January 1, 2027, a manufacturer of a 128  
product for sale in this state that contains an intentionally 129  
added PFAS shall submit to the director the information required 130

by rules adopted under this section. 131

(C) (1) After January 1, 2027, a manufacturer shall submit 132  
the information required under rules adopted under this section 133  
anytime the manufacturer intends to sell, offer for sale, or 134  
distribute for sale in this state a new product that contains 135  
intentionally added PFAS. The manufacturer shall submit such 136  
information to the director within a time period specified in 137  
rules adopted under this section. 138

(2) A manufacturer shall submit a revision of the 139  
information required to be submitted under rules adopted under 140  
this section not later than thirty days after a significant 141  
change to the information that the manufacturer previously 142  
submitted or upon the request of the director. 143

(D) Upon approval from the director, a manufacturer may 144  
provide the information required by this section to the director 145  
for a category or type of product. 146

(E) No manufacturer shall sell, offer for sale, or 147  
distribute for sale a product that contains an intentionally 148  
added PFAS unless the manufacturer has submitted to the director 149  
the information required by rules adopted under this section by 150  
the time specified in this section and rules adopted under it. 151

(F) The director may waive the obligation of a 152  
manufacturer to submit all or part of the information required 153  
by rules adopted under this section if the director determines 154  
that substantially equivalent information is publicly available. 155  
The director may grant a waiver to a manufacturer or a group of 156  
manufacturers for multiple products or a product category. 157

(G) The director may extend any deadline for a 158  
manufacturer to submit the information required by this section 159

if the director determines that more time is needed by the 160  
manufacturer to comply with the submission requirements. 161

(H) The director may enter into an agreement with one or 162  
more states or political subdivisions of a state to collect and 163  
share information otherwise required to be submitted by this 164  
section. The director may accept such information as meeting the 165  
information submission requirements of this section. 166

**Sec. 3745.83.** (A) If the director of environmental 167  
protection has reason to believe that a product containing 168  
intentionally added PFAS is being offered for sale in this state 169  
and the manufacturer of the product has not complied with 170  
section 3745.82 of the Revised Code, the director may direct the 171  
manufacturer of the product to, within thirty days, provide 172  
testing results that demonstrate the amount, if any, of each 173  
PFAS in the product. 174

(B) If testing demonstrates that the product does not 175  
contain an intentionally added PFAS, the manufacturer shall 176  
provide the director with a certificate attesting that the 177  
product does not contain an intentionally added PFAS. The 178  
manufacturer also shall submit the testing results and any other 179  
relevant information requested by the director. 180

(C) If testing demonstrates that the product contains an 181  
intentionally added PFAS, all of the following apply: 182

(1) The manufacturer shall submit to the director, within 183  
thirty days, the information required for the product pursuant 184  
to section 3745.82 of the Revised Code; 185

(2) The manufacturer shall provide the director with the 186  
testing results; 187

(3) The director may issue an order prohibiting the 188

product from being sold, offered for sale, or distributed for 189  
sale in this state. If the director issues such an order, the 190  
manufacturer shall notify each person that sells the product in 191  
this state that the sale of the product is prohibited and 192  
provide the director with a list of the names and addresses of 193  
the persons so notified. 194

Sec. 3745.84. (A) Beginning January 1, 2028, no 195  
manufacturer shall sell, offer for sale, or distribute for sale 196  
in this state any of the following products if that product 197  
contains an intentionally added PFAS: 198

(1) Carpets or rugs; 199

(2) Cleaning products; 200

(3) Cookware; 201

(4) Cosmetics; 202

(5) Dental floss; 203

(6) Fabric treatments; 204

(7) Juvenile products; 205

(8) Feminine hygiene products; 206

(9) Textile furnishings; 207

(10) Ski wax; 208

(11) Upholstered furniture. 209

(B) Beginning January 1, 2033, no manufacturer shall sell, 210  
offer for sale, or distribute for sale a product containing an 211  
intentionally added PFAS unless the product is exempt under 212  
section 3745.85 of the Revised Code or the director of 213  
environmental protection has adopted a rule under section 214

<u>3745.86 of the Revised Code providing that the use of PFAS in</u>	215
<u>that product is a currently unavoidable use.</u>	216
<u>(C) Until January 1, 2033, the director may adopt rules in</u>	217
<u>accordance with Chapter 119. of the Revised Code to prohibit a</u>	218
<u>manufacturer from selling a product not listed in division (A)</u>	219
<u>of this section that contains an intentionally added PFAS. In</u>	220
<u>adopting rules under this division, the director shall do both</u>	221
<u>of the following:</u>	222
<u>(1) Establish an effective date for each such prohibition.</u>	223
<u>No such effective date shall be earlier than January 1, 2028.</u>	224
<u>(2) Prioritize prohibitions of products containing</u>	225
<u>intentionally added PFAS that are most likely to harm humans or</u>	226
<u>contaminate the environment.</u>	227
<u>(D) The director may notify a person that sells a product</u>	228
<u>prohibited under sections 3745.82 to 3745.84 of the Revised Code</u>	229
<u>that the product is prohibited in this state.</u>	230
<b><u>Sec. 3745.85. (A) Sections 3745.82 to 3745.84 of the</u></b>	231
<b><u>Revised Code do not apply to any of the following:</u></b>	232
<u>(1) A product for which federal law governs the presence</u>	233
<u>of PFAS in the product in a manner that preempts state</u>	234
<u>authority;</u>	235
<u>(2) Used products offered for sale or resale;</u>	236
<u>(3) Firefighting foam authorized for use in this state</u>	237
<u>under section 3737.52 of the Revised;</u>	238
<u>(4) A pesticide regulated by or under the jurisdiction of</u>	239
<u>the "Federal Insecticide, Fungicide, and Rodenticide Act," 7</u>	240
<u>U.S.C. 136, et seq.</u>	241

(B) Section 3745.83 and 3745.84 do not apply to medical devices or drugs that are regulated by the United States food and drug administration, including prosthetic and orthotic devices. 242  
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Sec. 3745.86. (A) The director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following: 246  
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(1) Exempt from the reporting requirements established under section 3745.82 of the Revised Code any product that contains an intentionally added PFAS that is exempt under section 3745.85 of the Revised Code or that has been designated as having a currently unavoidable use by the director under this section; 249  
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(2) Create a series of ranges for the amount of a PFAS in a product that contains an intentionally added PFAS for reporting purposes; 255  
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(3) Identify currently unavoidable uses of PFAS that are essential for health, safety, or the functioning of society and for which alternatives are not reasonably available. 258  
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(B) The director may adopt rules in accordance with Chapter 119. of the Revised Code to carry out sections 3745.81 to 3745.87 of the Revised Code, including rules that do the following: 261  
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(1) Prohibit products that contain an intentionally added PFAS by category or use; 265  
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(2) Establish a fee payable by a manufacturer to the director upon submission of the information required under rules adopted in section 3745.82 of the Revised Code. Proceeds from the fee shall be deposited in the environmental protection fund 267  
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created under section 3745.015 of the Revised Code. 271

(C) Prior to adopting a rule under division (B)(1) of this 272  
section regarding a pesticide that is not exempt under section 273  
3745.85 of the Revised Code or any fertilizer, agricultural 274  
liming material, or plant or soil amendment that contains an 275  
intentionally added PFAS, the director shall consult with the 276  
director of agriculture. 277

**Sec. 3745.87.** Any manufacturer that violates sections 278  
3745.81 to 3745.86 of the Revised Code or a rule adopted or 279  
order issued under those sections shall pay a civil penalty of 280  
not more than fifteen thousand dollars for each violation, to be 281  
paid into the state treasury to the credit of the general 282  
revenue fund. Each day that a violation continues constitutes a 283  
separate offense. The attorney general, upon written request by 284  
the director of environmental protection, shall bring an action 285  
for such a penalty against any manufacturer that violates 286  
sections 3745.81 to 3745.86 of the Revised Code. Such an action 287  
is a civil action, governed by the Rules of Civil Procedure and 288  
other rules of practice and procedure applicable to civil 289  
actions. 290

Any civil penalties imposed under this section do not 291  
limit a manufacturer's liability in other causes of action. 292

**Section 2.** That existing section 3745.015 of the Revised 293  
Code is hereby repealed. 294