

## Insights

# PFAS UPDATE: JULY 2022 STATE-BY-STATE CONSUMER PRODUCTS REGULATIONS

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This insight was originally published in July 2022. [Visit our up-to-date blog on PFAS in consumer products: state-by-state regulations >](#)

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Manufacturers, distributors, and retailers of consumer products across a broad spectrum of industries are being impacted by regulations regarding the presence of per- and polyfluoroalkyl substances (“PFAS”) in their products. This area is rapidly developing as states create new laws, and the penalties and litigation risk for non-compliance can be significant.

While this article focuses on state laws and regulations, we note that the House of Representatives passed the [PFAS Action Act of 2021](#) on July 21, 2021, which among other things, includes provisions regarding labeling requirements for certain consumer products (see section 10 of the Act for additional information). While the Senate still needs to approve this Bill, it demonstrates that federal attention has been directed to PFAS consumer products issues, and that federal action in this area is reasonably likely.

PFAS is a family of chemicals comprised of over 8,000 compounds, and it may be significantly higher considering how a PFAS substance is defined. According to the [Agency for Toxic Substances and Disease Registry](#) (“ATSDR”), PFAS have been reported in certain consumer products, including the following:

- some grease-resistant paper, fast food containers, microwave popcorn bags, pizza boxes, and candy wrappers;
- nonstick cookware (e.g., Teflon);
- stain resistant coatings used on upholstery or other fabrics;
- water resistant clothing such as “durable water repellent clothing”;
- cleaning products;

- personal care products (e.g., shampoo, dental floss) and cosmetics (e.g., nail polish, eye makeup); and
- paints, varnishes or sealants.

Some sources, such as the [United States Environmental Protection Agency](#) (“EPA”), also states that certain PFAS chemicals accumulate both in the human body and animals since PFAS can be ingested through water and food. Accordingly, certain states have enacted health advisories limiting the consumption of deer meat and fish tissue.

## **I. Specific Consumer Product Regulations**

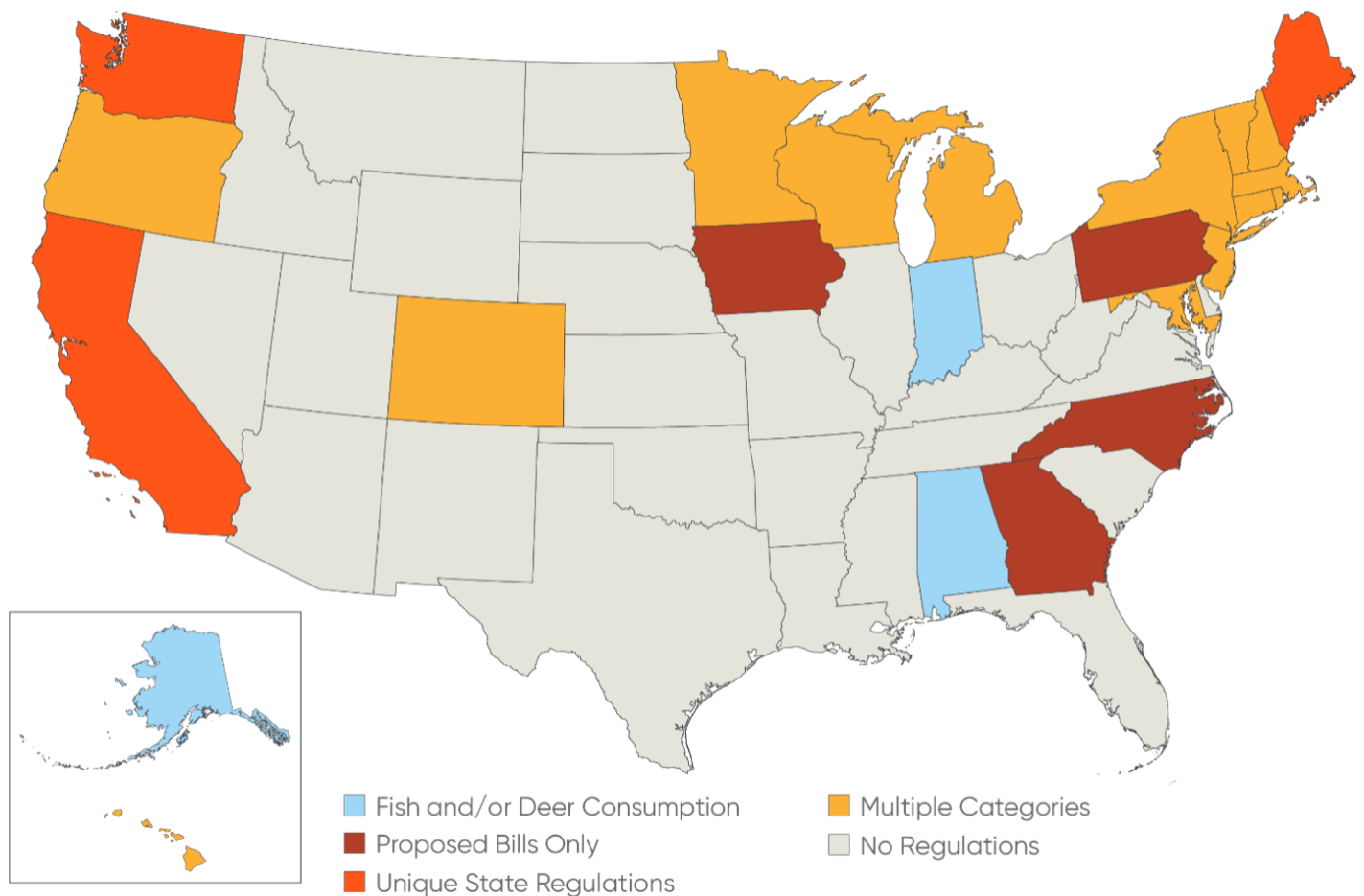
States have taken many different approaches to regulating consumer products containing PFAS.

State regulations of PFAS in consumer products have principally focused on the following product sectors thus far, but these categories are not exclusive:

- Food Packaging;
- Cosmetics or Personal Care Products;
- Children’s Products;
- Textiles, Fabrics, Carpets or Rugs, and Upholstery; and
- The Consumption of Fish Tissue and Deer Meat.

Below is an overview of enacted and proposed state laws and regulations as of July 26, 2022, to assist you in investigating whether your products may be impacted.

## ENACTED AND PROPOSED PFAS CONSUMER PRODUCT REGULATIONS



As of July 26, 2022

The following chart identifies what specific product categories each state regulates, but does not include the specific regulatory levels or requirements to avoid confusion because the structure and limits vary widely from state to state.

State	Product Categories	Regulatory Status	Reference and Details
Alabama	Fish Consumption	Advisory	<a href="#">The Alabama Department of Health</a> has issued limitations for fish consumption from one reservoir and two creeks
Alaska	Fish Consumption	Advisory	The Alaska Department of Health

			and Social Services has issued limitations for fish consumption in one lake
<b>California</b>	Proposition 65: All consumer products sold to California consumers may require warnings if these products contain PFOA, PFOS and PFOS salts and transformation and degradation precursors, and PFNA above safe harbor levels	Enacted	<a href="#">27 CCR 27001</a>
	Cosmetics	Enacted	<a href="#">AB 2762</a>
	Rugs and Carpets	Enacted	<a href="#">Z-2020-0218-04</a> and <a href="#">DTSC Related Information</a>
	1) Cookware; and 2) Food Packaging	Enacted	<a href="#">AB 1200</a>
	Children's Products	Enacted	<a href="#">AB 652</a>
	Recycling	Enacted	<a href="#">SB 343</a>
	Composting	Enacted	<a href="#">AB 1201</a>
	Textiles	Proposed	<a href="#">AB 1817</a>
	Cosmetics (Additional)	Proposed	<a href="#">AB 2771</a>
	Public Disclosure for all Consumer Products	Proposed	<a href="#">AB 2247</a>
<b>Colorado</b>	1) Carpets and Rugs;	Enacted	<a href="#">HB22-1345</a>

	2) Fabric Treatments; 3) Food Packaging; 4) Children's Products; 5) Oil and Gas Products; 6) Cookware – certain labelling requirements; 7) Cosmetics; 8) Indoor and Outdoor Textile Furnishings; and 9) Indoor and Outdoor Upholstered Furniture		
<b>Connecticut</b>	Food Packaging	Enacted	<a href="#">SB 837</a>
	Fish Consumption	Advisory	The Connecticut Department of Energy and Environmental Protection has issued an <a href="#">Advisory</a> for fish consumption in numerous locations
<b>Georgia</b>	1) Food Packaging; and 2) Children's Products	Proposed	<a href="#">HB 1629</a>
<b>Hawaii</b>	Food Packaging	Enacted	<a href="#">HB 1644</a>
	Recycling	Proposed	<a href="#">HB 1646</a>

<b>Indiana</b>	Fish Consumption	Advisory	Three state agencies have issued limitations for fish consumption from rivers, streams, and lakes for various contaminants, including PFOS substances
<b>Iowa</b>	Food Packaging	Proposed	HF 2063 and SF 19
	Furniture	Proposed	HF 2063
<b>Maine</b>	PFOS as a “Priority Chemical” in Children’s Products	Enacted	38 M.S.R.A. 1693-A(1), 06-096 Chapter 890
	Food Packaging	Enacted	32 M.S.R.A. 26A.1731-1738
	Pesticides	Enacted	LD 264 and LD 2019
	Carpets, Rugs, and Fabric Treatments	Enacted	38 M.S.R.A. 16 §1614
	Prohibiting PFAS in all products by 2030 and reporting requirements	Enacted	38 M.S.R.A. 16 §1614
	Fish Consumption	Advisory	Remedial Action Guidelines for Certain Types of Fish and the Department of Inland Fisheries and Wildlife Fish Consumption Advisory
	Deer Restrictions	Advisory	One “do not eat” restriction has been issued for a certain five-mile area
<b>Maryland</b>	Cosmetics	Enacted	HB 643

	1) Food Packaging; and 2) Rugs and Carpets	Enacted	SB 273
	Fish Consumption	Advisory	The Maryland Department of the Environment has issued limitations for fish consumption in one creek for PFOS substances
	Pesticides	Proposed	HB 570
	Recycling	Proposed	HB 700
Massachusetts	Fish Consumption	Advisory	The Massachusetts Department of the Environment has issued limitations for fish consumption in five ponds
	Food Packaging	Proposed	S 2893 and H 4820
	Mosquito Management	Proposed	S 556
	Various Consumer Products:  1) Child Passenger Restraints;  2) Cookware;  3) Fabric Treatments;  4) Personal Care Products;  5) Rugs and Carpets;  6) Upholstered Furniture; and	Proposed	H 4818

	7) Children's Products		
Michigan	Fish Consumption	Advisory	The Michigan Department of Health and Human Services has issued limitations for fish consumption depending on the specific location
	Deer Restrictions	Advisory	One "do not eat" restriction has been issued for a certain three-mile area
	Labeling of Consumer Products containing PFAS Substances	Proposed	SB 0217
	Food Packaging	Proposed	HB 5250
Minnesota	Food Packaging	Enacted	Minn. Stat. § 325F.075
	Fish Consumption	Advisory	The Minnesota Department of Health has issued limitations for fish consumption from certain bodies of water
	Food Packaging (Additional)	Proposed	SF 70, HF 79, and SF 373
	Composting	Proposed	SF 148 and HF 630
	Prohibit PFAS substances in Cannabis Packaging	Proposed	HF 600
	Cookware	Proposed	HF 2907
	Cosmetics	Proposed	HF 2906
	Ski Wax	Proposed	HF 2952
	Disclosure of Consumer	Proposed	HF 3075



	Products containing PFAS Substances		
	Clothing and Apparel	Proposed	<a href="#">HF 3076</a>
	Children's Products	Proposed	<a href="#">HF 3571</a>
	Carpets and Textiles	Proposed	<a href="#">HF 3180</a>
	<p>PFAS funding, PFAS disclosures or notifications, and PFAS in the following products:</p> <ul style="list-style-type: none"> <li>1) Carpets and Rugs;</li> <li>2) Fabric Treatments;</li> <li>3) Upholstered Furniture;</li> <li>4) Textile Furnishings;</li> <li>5) Cookware;</li> <li>6) Cosmetics; and</li> <li>7) Ski Wax</li> </ul>	Proposed	<a href="#">HF 4492</a>
<b>New Hampshire</b>	Fish Consumption	Advisory	<a href="#">The New Hampshire Department of Environmental Services</a> has issued limitations for fish consumption from five lakes
	1) Disclosure of Consumer Products containing PFAS Substances;	Proposed	<a href="#">HB 1589</a>

	2) Carpets, Rugs, and Fabric Treatments; and  3) Prohibiting PFAS in All Products by 2030		
<b>New Jersey</b>	Fish Consumption	Advisory	The New Jersey Department of Environmental Protection has issued limits for fish consumption the high risk and general populations (See pg. 9)
	Recycling	Proposed	<a href="#">A 1554</a>
<b>New York</b>	Children's Products	Enacted	S 501B
	Food Packaging	Enacted	<a href="#">N.Y. Environmental Conservation Law § 37-0209</a>
	Fish Consumption	Advisory	The New York State Department of Health has issued limitations for fish consumption from multiple waterways in one region
	Carpets	Proposed	<a href="#">S 5027</a>
	Apparel	Proposed	<a href="#">S 6291</a>
	General Packaging	Proposed	<a href="#">A 10185</a>
	Anti-Fogging Sprays and Wipes	Proposed	<a href="#">S 8188</a>
	Cosmetics/Personal Care Products	Proposed	<a href="#">S 8364</a>
	Prevent Incineration of PFAS Substances	Proposed	<a href="#">A 10081</a>

Feminine Hygiene Products	Proposed	<a href="#">S 9379</a>
<p>Prohibiting PFAS in the following products:</p> <p>1) Cleaning Products;</p> <p>2) Air Care Products;</p> <p>3) Automotive Products;</p> <p>4) Cookware;</p> <p>5) Fabric Treatments;</p> <p>6) Rugs;</p> <p>7) Ski Wax;</p> <p>8) Textiles and Textile Articles;</p> <p>9) Outdoor Apparel;</p> <p>10) Architectural Paints;</p> <p>11) Personal Protective Equipment;</p> <p>12) Polishes or Floor Products;</p>	Proposed	<a href="#">A 10620</a>
<p>Prohibiting PFAS in All Products by 2030 and PFAS in the following products:</p> <p>1) Carpets and Rugs;</p> <p>2) Cookware;</p>	Proposed	<a href="#">A 8491</a>

	3) Cosmetics;  4) Fabric Treatments; and  5) Personal Care Products		
North Carolina	Use and Manufacturing	Proposed	S 638
	General Packaging	Proposed	HB 1113
Oregon	Children's Products	Enacted	Toxic Free Kids Act: 431A.250 et al.
	Fish Consumption	Advisory	The Oregon Health Authority has issued guidelines recommending limitations for fish consumption depending on the specific location because of various contaminants, including PFOS substances
Pennsylvania	Food Packaging	Proposed	HB 1965
Rhode Island	Food Packaging	Enacted	S 2044
	Food Packaging and Warning Labels for Clothing or Carpeting	Proposed	S 2049
	Various Consumer Products:  1) Rugs and Carpets;  2) Fabric Treatments;  3) Upholstered Furniture;  4) Textiles;	Proposed	H 7436

	5) Apparel;  6) Cosmetics;  7) Children's Products; and  8) Cookware		
Vermont	Children's Products	Enacted	<a href="#">18 V.S.A. 1773</a>
	Food Packaging	Enacted	<a href="#">18 V.S.A. 1672</a>
	Rugs, Carpets, and Aftermarket Stain and Water Resistant Treatments	Enacted	<a href="#">18 V.S.A. 1682</a>
	Ski Wax	Enacted	<a href="#">18 V.S.A. 1692</a>
	Labeling for Certain Consumer Products	Proposed	<a href="#">H 27</a>
	1) Prohibiting PFAS in All Products by 2030; and  2) Cookware and Utensils	Proposed	<a href="#">H 650</a>
	Cosmetics	Proposed	<a href="#">H 677</a>
	1) Cosmetics; and  2) Athletic Turf Fields	Proposed	<a href="#">S 267</a>
	Prohibit Use of PFAS	Proposed	<a href="#">H 694</a>

	Products Sold in Vermont		
<b>Washington</b>	Food Packaging	Enacted	<a href="#">RCW 70A.222.070</a>
	Children's Products	Enacted	<a href="#">WAC 173-334-010 et seq.</a>
	Pollution Prevention for Our Future Act, identifying various "priority" consumer products using PFAS substances	Enacted	<a href="#">SB 5135</a>
	Regulate PFAS Consumer Products identified in the Chemical Action Plan	Enacted	<a href="#">HB 1694</a> and the <a href="#">2021 Washington Chemical Action Plan</a>
	Cosmetics	Proposed	<a href="#">SB 5480</a> and <a href="#">HB 1853</a>
<b>Wisconsin</b>	Fish Consumption	Advisory	The Wisconsin Department of Natural Resources has issued limitations for fish consumption from numerous creeks and lakes
	Deer Consumption	Advisory	Two agencies issued a <a href="#">"do not eat" deer liver restriction</a> for a certain five-mile area
	Food Packaging	Proposed	<a href="#">SB 361</a>

No PFAS consumer product regulations (as of the date of publication): Arizona, Arkansas, Delaware, Florida, Idaho, Illinois, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming

## II. Conclusion

While several states do not currently have any adopted laws or regulations with respect to PFAS in consumer products, many are considering ways to address these chemicals. As noted above, Congress is also considering regulation at a national level. Whether or not your business is currently subject to consumer product regulations related to PFAS, a prudent first step to evaluate your potential risk is to determine whether any of your products or production methods contain or use these chemicals.

For more information on PFAS chemicals, and the regulatory and litigation risks that they pose, please visit our [PFAS webpage](#). If you believe that you may be impacted by an enacted or proposed regulation, or if you would like help with evaluating whether PFAS may be present in your products, please contact Tom Lee, John Kindschuh, Emma Cormier, or any other member of our PFAS team at Bryan Cave Leighton Paisner LLP.

## **RELATED CAPABILITIES**

- Environment
- PFAS

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