

COLORADO INCREASES RESTRICTIONS ON PFAS IN CONSUMER PRODUCTS

May 16, 2024

SUMMARY

On May 1, 2024, Colorado governor Jared Polis signed [SB-81](#), a bill entitled the "Perfluoroalkyl and Polyfluoroalkyl Consumer Protection Act." As discussed below, this bill expands Colorado's existing restrictions on the use of intentionally added PFAS in certain consumer product categories, and revamps the state's approach to intentionally added PFAS in cookware. The new Colorado law is similar to [Maine's recent legislation](#) which transitioned away from disclosures and towards PFAS prohibitions in specific product categories.

ELIMINATION OF INTENTIONALLY ADDED PFAS IN SPECIFIC PRODUCT CATEGORIES

Beginning in two to four years, Colorado has prohibited "intentionally added PFAS chemicals" from several product categories. "Intentionally Added PFAS Chemicals" are defined in Colorado's original PFAS law passed in 2022 as "PFAS chemicals that a manufacturer has intentionally added to a product and that have a functional or technical effect on the product" and also include any "intentional breakdown products" of added PFAS chemicals.

CLEANING PRODUCTS

Beginning on January 1, 2026, a person shall not sell, offer for sale, or distribute in Colorado cleaning products that contain intentionally added PFAS chemicals.

Exception: Does not include cleaning products that are floor maintenance products used in hospital or medical settings. Intentionally added PFAS in these products will be prohibited on January 1, 2028.

DEFINITIONS

"Cleaning Products" means finished products used primarily for domestic, commercial, or institutional cleaning purposes, and includes air care products, automotive cleaning products, general cleaning products, and polishes or floor maintenance products.

"Automotive Cleaning Product" means a chemically formulated consumer product labeled to indicate that the purpose of the product is to maintain the appearance of a motor vehicle, including products for washing, waxing, polishing, cleaning, or treating the exterior or interior surfaces of motor vehicles, but does not include automotive paint or paint repair products.

COOKWARE

Old law – labelling requirement

Beginning on January 1, 2024, a person shall not sell, offer for sale, or distribute in Colorado cookware that contains intentionally added PFAS chemicals in the food contact surface or handle unless both the product label and product website contain specific disclosure information. See [§25-15-604](#) for additional details. Importantly, however, the original law did not prohibit the continued use of intentionally added PFAS in cookware, as it simply required its disclosure.

New law – formulation prohibition

Beginning on January 1, 2026, a person shall not sell, offer for sale, or distribute in Colorado cookware that contains intentionally added PFAS chemicals. The product and website labelling requirements from 2024 appear to remain in effect, so businesses in the cookware industry will now need to develop a plan for reformulation while also ensuring that they comply with the existing law.

DEFINITIONS

Old law

"Cookware" means a durable houseware product that is used in residences or kitchens to prepare, dispense, or store food or beverages, including pots, pans, skillets, grills, baking sheets, baking molds, trays, bowls, and cooking utensils.

New law

"Cookware" does not include food equipment intended primarily for use in commercial settings, including food equipment sold to a business that has a retail food establishment license.

DENTAL FLOSS

Beginning on January 1, 2026, a person shall not sell, offer for sale, or distribute in Colorado dental floss that contains intentionally added PFAS chemicals.

MENSTRUATION PRODUCTS

Beginning on January 1, 2026, a person shall not sell, offer for sale, or distribute in Colorado menstruation products that contain intentionally added PFAS chemicals.

SIX WAX

Beginning on January 1, 2026, a person shall not sell, offer for sale, or distribute in Colorado ski wax that contains intentionally added PFAS chemicals.

Definition: "Ski Wax" means a lubricant applied to the bottom of snow runners, including skis and snowboards, to improve the grip or glide properties of the snow runners.

ARTIFICIAL TURF

Beginning on January 1, 2026, a person shall not install artificial turf that contains intentionally added PFAS chemicals on any portion of property in Colorado.

Exception: A person may maintain artificial turf installed before January 1, 2026.

TEXTILE ARTICLES

Beginning on January 1, 2028, a person shall not sell, offer for sale, or distribute in Colorado textile articles that contain intentionally added PFAS chemicals.

DEFINITION

"Textile Article" means a textile that is primarily used in households and businesses, including accessories, apparel, backpacks, and handbags.

"Textile Article" **does not** include: (i) outdoor apparel for severe wet conditions; (ii) outdoor textile furnishings; (iii) outdoor upholstered furniture; and (iv) textile articles used in medical, professional, or industrial settings.

OUTDOOR APPAREL FOR SEVERE WET CONDITIONS

Labelling requirement

Beginning on January 1, 2025, a person shall not sell, offer for sale, or distribute in Colorado, including in an internet listing or transaction, an outdoor apparel for severe wet conditions product

that contains intentionally added PFAS chemicals unless the product is accompanied by label that includes the phrase "Made with PFAS Chemicals."

Formulation prohibition

Beginning on January 1, 2028, a person shall not sell, offer for sale, or distribute in Colorado outdoor apparel for severe wet conditions that contains intentionally added PFAS chemicals.

DEFINITIONS

"Outdoor Apparel" means apparel intended primarily for use in outdoor activities, including bicycling, camping, climbing, fishing, hiking, and skiing, but **does not** include outdoor apparel for severe wet conditions.

"Outdoor Apparel for Severe Wet Conditions" means outdoor apparel that is: (i) an extreme and extended use product that provides protection against extended exposure to extreme rain conditions or against extended immersion in water or wet conditions, such as snow conditions, in order to protect the health and safety of the user; (ii) designed for use by outdoor sports experts; and (iii) not marketed for general consumer use.

"Outdoor Apparel for Severe Wet Conditions" includes outerwear intended for use in offshore fishing, offshore sailing, whitewater kayaking, and mountaineering, but **does not** include personal flotation devices made for the health and safety of the user.

CERTAIN FOOD EQUIPMENT

Beginning on January 1, 2028, a person shall not sell, offer for sale, or distribute in Colorado certain food equipment that contains intentionally added PFAS chemicals.

DEFINITION

Food equipment intended primarily for use in commercial settings that comes into direct contact with food.

EXCEPTIONS

There are several exceptions that apply to the product categories regulated by the new law:

- Drugs, medical devices, biologics, or diagnostics used in a medical setting or in medical applications regulated by the Food and Drug Administration ("FDA");
- Veterinary pesticide and parasiticide products approved by the Environmental Protection Agency or the Department of Agriculture for use in animals;

- Biologics or diagnostics approved by the Department of Agriculture for use in a veterinary setting; or
- Packaging used for the products described above.

CONCLUSION

The law presents significant challenges to the industries impacted by the requirements that go into effect at the beginning of 2026 and 2028. Perhaps more importantly, Colorado's new legislation signals the continued uncertainty regarding the approach that states will take to regulate PFAS in consumer products, and the importance of staying up to speed on the latest legislative developments in this space.

For more information on PFAS chemicals, and the regulatory and litigation risks that they pose, please visit our [PFAS webpage](#). If you have a question about how to manage PFAS risk in any jurisdiction, including in Colorado, contact Tom Lee, Merrit Jones, Erin Brooks, Bryan Keyt, or any other member of our PFAS team at BCLP.

RELATED CAPABILITIES

- PFAS

MEET THE TEAM



Thomas S. Lee

San Francisco

tom.lee@bclplaw.com

+1 415 675 3447



Merrit M. Jones

San Francisco

merrit.jones@bclplaw.com

+1 415 675 3435



Erin L. Brooks

Chicago / St. Louis

erin.brooks@bclplaw.com

+1 312 602 5093



John R. Kindschuh

St. Louis

john.kindschuh@bclplaw.com

+1 314 259 2313

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon (kathrine.dixon@bclplaw.com) as the responsible attorney.