

Comparison of H2450 to H4870 - An Act to protect Massachusetts public health from PFAS

SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after section 35SSS the following section:-

Section 35TTT. (a) As used in this section, the following words, unless the context clearly requires otherwise, shall have the following meanings:-

“Ambient air”, that portion of the atmosphere, external to buildings, to which the general public has access.

“Board of health”, any body politic or political subdivision of the commonwealth that acts as a board of health, public health commission or a health department for a municipality, region or district, including, but not limited to, municipal boards of health, regional health districts established pursuant to G.L. c. 111, § 27B and boards of health that share services pursuant to G.L. c. 40, § 4A or other legally constituted governmental unit within the Commonwealth having the usual powers and duties of the board of health of a city or town.

“Commissioner”, the commissioner of the department of environmental protection

“Department”, the department of environmental protection

“Fund”, the PFAS Remediation Trust Fund established in this section.

“Per- and polyfluoroalkyl substances” or “PFAS”, as defined and regulated by the department or identified, on the basis of a health assessment conducted pursuant to the department’s drinking water regulations, as posing an unacceptable health risk to consumers.

“Regional system”, any system established by mutual agreement of two or more municipalities or a county in which all municipalities of said county have an agreement where such a system provides drinking water or wastewater services, or both, through shared facilities, sources or distribution networks.

(b) (1) There shall be a PFAS Remediation Trust Fund. Expenditures from the fund shall be made by the department, without further appropriation and consistent with this section, the terms of settlements, judgments, and awards made in connection with claims arising from the manufacture, marketing or sale of PFAS and PFAS-containing products, and consistent with the terms of other allocations and monies transferred to this fund, as applicable. The commissioner shall administer the fund, shall prioritize expenditures to communities with vulnerable environmental justice populations, and may make expenditures from the fund to develop and implement a multilingual

outreach and education program pursuant to section 29 of chapter 21A of the General Laws.

(2) The fund shall be expended to mitigate the impacts of PFAS contamination in the commonwealth, including PFAS contamination in drinking water, groundwater, soil, sediment, surface water, wastewater, sludge or sludge products, landfills, and other media as appropriate. Such mitigation may include, but is not limited to, projects to assist counties, municipalities, **or other public entities with a direct impact on public water supplies**, private well owners, and public water systems with the cost of PFAS treatment and remediation, including but not limited to remediation projects, treatment, and mitigation. The commissioner shall make necessary expenditures from this account for the shared administrative costs of the operations and programs of the department related to the fund. The commissioner shall further direct that monies from the fund shall be expended to provide services in an amount reasonably related to such administrative costs. No expenditure shall be made from the fund that would cause the fund to be in deficit at the close of a fiscal year. Amounts credited to the fund shall not be subject to further appropriation and monies remaining in the fund at the end of the fiscal year shall not revert to the General Fund but shall instead be available for expenditure during subsequent fiscal years. Any fiscal year-end balance in the fund shall be excluded from the calculation of the consolidated net surplus pursuant to section 5C of chapter 29 of the General Laws.

(3) There shall be credited to the fund: (i) amounts recovered by the commonwealth and credited thereto in connection with claims arising from the manufacture and associated processes, distribution, marketing, or sale of PFAS and other PFAS-containing products; (ii) transfers from other funds authorized by the general court and so designated; (iii) funds from public or private sources, including, but not limited to, gifts, grants, donations, rebates, settlements, judgments, awards, and other allocations received by the commonwealth designated to the fund; and (iv) any interest earned on such amounts.

(c) The commissioner may award and administer grants from the fund, without further appropriation, consistent with the purposes of the fund described in this section. Further, subject to this section, grants may be made, without limitation, to: (i) municipalities and counties for municipal and county use, including, but not limited to, establishing connections to regional systems and funds necessary to address the reasonable administrative costs of the municipality; (ii) boards of health for use in assisting private well users; (iii) community water systems for use on an existing system or to expand a system to assist additional water users; (iv) non-transient non-community water systems; and (v) transient non-community water systems.

(d) The department shall adopt regulations, rules, or policies for the use of monies in the fund, and shall include conditions in grant documents to require that that applicants disclose any funds recovered from liable third parties or other sources to cover any

costs eligible to be reimbursed by said grant programs and to deduct said recovered funds from the total costs in the grant application. The department shall also require any person awarded a grant for cost reimbursement to report the recovery of any such costs in the future and to reimburse the fund by reimbursing such recovered costs to the department. The department shall further adopt regulations, rules, or policies establishing criteria to ensure that an applicant shall not be eligible for grants for any project or portion of a project to the extent the negligence of the applicant caused the contamination that resulted in the exceedance of applicable state or federal standards for PFAS in drinking water, groundwater, soil, and other environmental media.

(e) If the department provides a grant related to costs for a project for which a third party might otherwise be liable, the right to recover payment from such third party, excluding public sector fire departments for the use of Class B firefighting foam in emergency responses, shall be subrogated to the department to the extent of such grant. Any money recovered by the department from such third parties shall be deposited in the fund. Notwithstanding any other general or special law to the contrary, the superior court shall have jurisdiction for subrogation claims brought pursuant to this chapter, and civil actions brought by the attorney general for subrogated claims to recover costs pursuant to this chapter shall be commenced within five years from the date the commonwealth is assigned the rights to recover all such costs or five years from the date the commonwealth discovers that the person against whom the action is being brought is a person liable pursuant to law, whichever is later.

(f)(1) The department may consult with the department of public health to provide funding from the fund for boards of health to establish rebate and grant programs for the reimbursement of private well users and owners for the costs of private well water sampling, installation, and operation and maintenance of PFAS treatment systems. Eligible spending for rebate shall include, but is not limited to, sampling of private well water for those PFAS that are regulated for public water systems by the department's drinking water regulations and installation of permanent treatment systems to remove PFAS from drinking water. **Eligible spending for grants shall include, but is not limited to, payment to vendors for PFAS water testing and installation and maintenance of PFAS treatment systems, provided that such private well users and owners can establish that their income was below the state median household income rate in the year in which the costs were incurred and that such costs were incurred after the effective date of this section.**

(2) Boards of health may elect to receive funding from the fund pursuant to any program established pursuant to paragraph (1), and may apply for and receive grants from the fund necessary to cover reasonable administrative costs related to implementation of said paragraph (1). Boards of health that elect to participate shall amend their codes to require private well water quality testing for PFAS for property sales and new construction consistent with model bylaws and ordinances provided by the department through program guidance.

(3) Annually, not later than August 31, boards of health that elect to participate pursuant to paragraph (2) shall submit a report to the department including information demonstrating compliance during the preceding fiscal year with said paragraph (2) and other such information as required by the department.

(g) Annually, not later than October 1, the department shall file a report on the activity, revenue and expenditures to and from the fund in the prior fiscal year with the clerks of the house of representatives and the senate and the house and senate committees on ways and means, and shall make the report available on the department's website. The report shall include, but not be limited to: (i) revenue credited to the fund; (ii) the amount of expenditure attributable to the administrative costs of the department; (iii) an itemized list of expenditures from the fund; (iv) rebate and grant expenditures to private well users and owners and municipal administrative expenses of boards of health opting into such rebate and grant programs; and (v) data and a report of how resources have been directed to environmental justice populations.

SECTION 2
MGL 21:43B

Modified

SECTION 2. Chapter 21 of the General Laws is hereby amended by inserting after section 43A the following section:-

Section 43B. (a) The department of environmental protection shall amend each groundwater discharge permit upon renewal with requirements for monitoring and reporting of per- and polyfluoroalkyl substances using United States Environmental Protection Agency analytical methods as specified by the department.

(b) The department of environmental protection shall amend its surface water discharge permits issued to industrial permittees and groundwater discharge permits issued to industrial permittees upon renewal with requirements to implement best management practices for discharges of PFAS, including, but not limited to: (i) product elimination or substitution when a reasonable alternative to using PFAS is available in the industrial process; (ii) accidental discharge minimization; and (iii) equipment decontamination or replacement where PFAS products have historically been used. These industrial permittees shall include those that use or previously used PFAS or PFAS products or those where best management practices are warranted based on the department's review of discharge monitoring unless the industrial permittee can show that the PFAS in the discharge entered the facility **through** the local water supply and not the manufacturing process.

(c) The department of environmental protection shall include effluent limitations and treatment requirements for PFAS in groundwater discharge permits upon renewal.

SECTION 3
Deleted

~~SECTION 3. The department of environmental protection shall promulgate regulations to implement a schedule for phasing out the use, sale, or distribution, or offer for use, sale, or distribution of sludge without the department's site-specific approval in the commonwealth, and shall not include the disposal or placement of sludge at a solid waste landfill, hazardous waste landfill or sludge landfill. For the purposes of this section, "sludge" shall mean the solid, semi solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment, and does not include grit, screening, or grease and oil removed at the headworks of a wastewater or drinking water facility.~~

SECTION 3

MGL 21:68

New

SECTION 3. Chapter 21 of the General Laws is hereby amended by inserting after section 67 the following sections:-

Section 68. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Department", the department of environmental protection.

"Sludge", the solid, semi solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment, and does not include grit, screening, or grease and oil removed at the headworks of a wastewater or drinking water facility.

(b) The department shall promulgate regulations to implement a schedule for phasing out the use, sale, or distribution, or offer for use, sale, or distribution of sludge without the department's site-specific approval in the commonwealth, and shall not include the disposal or placement of sludge at a solid waste landfill, hazardous waste landfill or sludge landfill.

Section 69. (a) Not later than December 31, 2030, the department of environmental protection shall submit a report to the chairs of the joint committee on public health and the joint committee on environment and natural resources regarding its progress in establishing standards to monitor PFAS in ambient air. This report shall include, but not be limited to: (i) the department's capacity to establish these standards; (ii) the steps the department has taken or plans to take to establish these standards; and; (iii) a projected timeline detailing when the department expects to finish establishing standards to monitor PFAS in ambient air.

SECTION 4 (formerly Section 5 in in HB2450)

MGL 21A:29

Modified

SECTION ~~5~~ 4. Chapter 21A of the General Laws is hereby amended by inserting after section 28 the following section:-

Section 29. (a) The department, in consultation with the department of public health, shall develop and implement a multilingual public awareness campaign to promote the education of Massachusetts residents, including environmental justice populations, offer- and polyfluoroalkyl substances contamination across the commonwealth and potential health impacts of PFAS exposure. The campaign shall include the development and distribution of educational materials, drafted in plain language to the extent possible, the content of which shall include, but not be limited to: (i) the potential health impacts of PFAS exposure; (ii) the routes of PFAS exposure, including but not limited to, drinking water, groundwater, surface water, wastewater, land application of biosolids, landfills, air, and fish tissue; (iii) consumer products that are known to contain PFAS; (iv) PFAS in Class B firefighting foam; (v) a list of facilities that are known and potential sources of PFAS and are required to prepare a toxics use reduction plan for PFAS within 10 miles of the environmental justice populations; (vi) assistance programs for PFAS remediation; (vii) citizen involvement pursuant to G.L. c. 21I, § 18; and (viii) assistance programs for PFAS remediation.

(b) The educational materials shall be translated into the native languages spoken by the impacted environmental justice populations based on the federal census definition of English isolation. Such educational materials shall be made available to, but not be limited to: (i) community centers; (ii) health care centers; (iii) schools, (iv) places of worship; (v) the department of education; (vi) and the department of early education and care.

(c) The department may contract or associate with public and private agencies and organizations for the preparation of said educational materials on PFAS exposure, other pertinent resource information on the matter of PFAS contamination and conducting educational programs. The department may use funds from the Fund, as established in section 35TTT of chapter 10 of the general laws, for such contracts.

SECTION 4

Deleted

~~SECTION 4. Not later than December 31, 2030, the department of environmental protection shall submit a report to the Chairs of the Joint Committee on Public Health and the Joint Committee on Environment and Natural Resources regarding its progress in establishing standards to monitor PFAS in ambient air. This report shall include, but not be limited to: (i) the department's capacity to establish these standards; (ii) the steps the department has taken or plans to take to establish these standards; and; (iii) a projected timeline detailing when the department expects to finish establishing standards to monitor PFAS in ambient air.~~

SECTION 5 (formerly Section 6 in in HB2450)

MGL 111:5T

Modified

SECTION ~~6~~ 5. Chapter 111 of the General Laws is hereby amended by inserting after section 5S the following sections:-

Section 5T. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Agricultural products", any vegetable, fruit, dairy, meat, fish, and poultry, and agricultural inputs, such as, but not limited to, feed, water, fertilizer, pesticides, produced and sold commercially in Massachusetts.

"Department", the department of public health

"Food package", a package or packaging component that is intended for the marketing, protection or handling of a product intended for direct food contact or used to store food and foodstuffs for sale.

"Fully Fluorinated Carbon Atom", a carbon atom on which all the hydrogen substituents have been replaced by fluorine.

"Intentionally added", PFAS that is added to a product, or enters the product from the manufacturing or processing of that product; the addition of which is known or reasonably ascertainable by the manufacturer. "Intentionally added" PFAS also includes any degradation by-products of PFAS or the use of PFAS or PFAS precursors as a processing agent, mold release agent, or the creation of PFAS via chemical reactions.

~~"Ingredient", has the same meaning as that term is defined in subdivision (e) of Section 700.3 of Part 700 of Chapter 1 of Title 21 of the Code of Federal Regulations and does not include any incidental ingredient as defined in subdivision (l) of Section 701.3 of Part 701 of Chapter 1 of Title 21 of the Code of Federal Regulations.~~

"Known or reasonably ascertainable", all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know.

"Manufacturer", a person, firm, association, partnership, government entity, organization, joint venture or corporation that applies a package to a product for distribution or sale, **~~or any person whose name appears on the label of a cosmetics product pursuant to the requirements of Section 701.12 of Title 21 of the Code of Federal Regulations.~~**

"Package", a container providing a means of marketing, protecting or handling a product which shall include a unit package, an intermediate package, a package used for shipping or transport and unsealed receptacles such as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags and tubs.

"Packaging component", an individual assembled part of a package including, but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks and labels.

"Per- and polyfluoroalkyl substances" or "PFAS", a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(b) No manufacturer shall sell, offer for sale, distribute for sale, or distribute for use in the commonwealth food packaging to which PFAS have been intentionally added in any amount.

(c) The department, in consultation with department of environmental protection and the department of agricultural resources, shall procure or otherwise employ an external research organization, which has the capacity to study per- and polyfluoroalkyl substances and the effect PFAS has on agricultural products produced and sold in the commonwealth; provided, that the research organization shall have: (1) extensive experience with a wide variety of agricultural products and environmental matrices, including, but not limited to, plants and animals; (2) a current QAPP ("Quality Assurance Project Plan") through the United States Environmental Protection Agency; (3) current sampling and chain of custody protocols; (4) experience handling complex agricultural matrices; and (5) access to state-of-the art mass spectrometers. The study shall include findings on the levels of PFAS found in: (1) in agricultural products sold in Massachusetts stores; (2) locally sourced agricultural products; and (3) agricultural inputs including, but not limited to, feed, water, fertilizer, and pesticides. The department shall make said report publicly available with the department's findings on the department's website. The commissioner shall file a progress report in writing of the findings, including food and agricultural sources of contamination, within 365 days of the passage of this act; provided, that the report shall be filed with the house and senate committees on ways and means, the joint committee on environment and natural resources, the joint committee on public health, and the joint committee on agriculture on or before August 31, 2027.

Section 5U. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Child passenger restraint", a child passenger restraint under G.L. c. 90, § 7AA.

"Children's product", consumer products, **including its product components**, intended, made or marketed for use by ~~children~~**12 children 12** years of age or under , including, **but not limited to**,: (i) toys; (ii) children's clothing; (iii) children's cosmetics and personal care products; (iv) children's jewelry and novelty products; (v) children's school supplies; (vi) children's arts and crafts supplies, including model making supplies (vii) children's bedding, furniture, and furnishings; (viii) child car seats; (ix) products to help a child with sucking or teething, or to facilitate sleep, relaxation, or the feeding of a child; (x) artificial turf fields installed on school properties, publicly owned properties, or intended for use by children under the age of 18; (xi) products that meet any of the following conditions: represented in its packaging, display, or advertising as appropriate for use by children,

sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children sold in a retail store, catalogue, or online website, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as of ~~13~~ appropriate for use by children, or sold in a discrete portion of a retail store, catalogue, or online website, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; provided, however, that "children's product" shall not include: (i) ~~batteries; medical devices or~~ (ii) ~~slings and catapults; (iii) sets of darts with metallic points; (iv) toy steam engines; (v) bicycles and tricycles; (vi) video toys that can be connected to video screen and are operated at a nominal voltage exceeding twenty-four volts; (vii) chemistry sets; (viii) consumer and children's~~ children's electronic products, including, but not limited to, a personal ~~computers computer~~, audio and video equipment, ~~calculators calculator~~, wireless ~~phones phone~~, game ~~consoles console~~, and handheld ~~devices device~~ incorporating a video screen, ~~used to access interactive software and their associated peripherals; (ix) interactive software, intended for leisure and entertainment, including computer games and their storage media, including compact disks; (x) BB guns, pellet guns and air rifles; (xi) snow sporting equipment, including skis, poles, boots, snow boards, sleds and bindings; (xii) roller skates; (xiii) scooters; (xiv) model rockets; (xv) athletic shoes with cleats or spikes; (xvi) pocketknives and multitools; (xvii) food and beverages and food and beverage packaging regulated by the United States Food and Drug Administration or the United States Department of Agriculture; (xviii) pharmaceutical products and biologics; and (xix) medical devices, associated peripheral~~ such as ~~defined in the federal Food, Drug, and Cosmetic Act, U a mouse, S keyboard, C power supply unit, 21 section 321(h) or power cord.~~

"Consumer product," any article that, to any significant extent, is distributed in commerce for personal use or consumption by individuals; ~~provided however, that "consumer product" shall not include a motor vehicle or motor vehicle equipment regulated under a federal motor vehicle safety standard, as defined in 49 United States Code, Section 30102(a)(10), and any other motor vehicle, including an off-highway vehicle or specialty motor vehicle, such as an all-terrain vehicle, side-by-side vehicle, farm equipment or personal assistive mobility device, except that the exemption under this paragraph does not apply to any textile article or refrigerant that is included in or as a component part of such products.~~

"Cookware", durable houseware items that are used in homes and restaurants to prepare, dispense, or store food, foodstuffs or beverages, including, but not limited to, pots, pans, skillets, grills, baking sheets, baking molds, trays, bowls and cooking utensils.

~~"Cosmetic", means: (a) articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body or any part thereof for~~

cleansing, beautifying, promoting attractiveness or altering the appearance, including wigs, hairpieces and postiches; (b) articles intended for use as a component of any such articles; and (c) shall not include soap.

“Current unavoidable uses”, a use of PFAS that the department has determined under this section to be: (i) essential for health, safety or the functioning of society; (ii) necessary for the proper operation and functionality of a product; and; (iii) for which safer chemical alternatives are not reasonably available.

“Department”, the department of public health.

“Distributor”, any person, firm or corporation who takes title to goods, produced either domestically or in a foreign country, purchased for resale or promotional purposes.

“Drug”, as defined by 21 U.S.C. 321(g)(1)

“Fabric treatment”, a substance applied to fabric, carpets, rugs, shoes or textiles to impart characteristics, including, but not limited to, stain resistance or water resistance.

“Fully fluorinated carbon atom”, a carbon atom on which all the hydrogen substituents have been replaced by fluorine.

“Intentionally added”, PFAS that is added to a product, or enters the product from the manufacturing or processing of that product; the addition of which is known or reasonably ascertainable by the manufacturer. “Intentionally added” PFAS also includes any degradation by-products of PFAS or the use of PFAS or PFAS precursors as a processing agent, mold release agent, or the creation of PFAS via chemical reactions.

“Known or reasonably ascertainable”, all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know.

“Manufacturer”, any person, firm or corporation that manufactures a product whose brand name is affixed to the product. In the case of a product imported into the United States, “manufacturer” includes the importer or first domestic distributor of the product if the person that manufactured or assembled or whose brand name is affixed to the product does not have a presence in the United States.

“Medical device”, a device as defined by 21 U.S.C 321(h)

“Per- and polyfluoroalkyl substances” or “PFAS”, a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

“Personal care products”, articles intended to be rubbed, poured, sprinkled, or sprayed

on, introduced into or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness or altering the appearance. Personal care products shall include products such as skin moisturizers, perfumes, lipsticks, fingernail polishes, eye and facial makeup preparations, shampoos, permanent waves, hair colors, toothpastes, sunscreen, hair spray, shaving cream and deodorants, as well as any material intended for use as a component of a cosmetic product. Personal care products shall also include, but not be limited to, menstrual products such as sanitary napkins, menstrual underwear, tampons and underwear liners. Personal care products ~~does~~ **shall** not include a product that requires a prescription for distribution or dispensation. **~~“Personal Care Products” does not include hydrofluorocarbon or hydrofluoroolefins used as propellants in personal care products.~~**

“Priority product,” any child passenger restraint, children’s product, cookware, fabric treatment, personal care products, rugs and carpets, textile, textile furnishings, or upholstered furniture.

“Product component”, a component of a consumer product, including the product’s ingredients or a part of the product, regardless of whether the manufacturer of the consumer product is the manufacturer of the component.

“Product label”, a display of written, printed or graphic material that appears on, or is affixed to, the exterior of a product, or its exterior container or wrapper that is visible to a consumer, if the product has an exterior container or wrapper.

“Retailer”, any person, firm or corporation to whom a consumer product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale.

“Rugs and carpets”, fabric used to or marketed to cover floors.

“Textile”, any item made in whole or part from a natural or synthetic fiber, yarn, or fabric. Textile includes but is not limited to leather, cotton, silk, jute, hemp, wool, viscose, nylon, and polyester.

“Textile furnishings”, textile goods of a type customarily used in households and businesses, including but not limited to draperies, floor coverings, furnishings, bedding, towels, and tablecloths.

“Upholstered furniture”, as defined in G.L. c. 94, § 270.

“Wholesaler,” any person, firm or corporation to whom a consumer product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes of resale.

(b) (1) No manufacturer, distributor, wholesaler or retailer shall offer for sale, sell or distribute in the commonwealth any priority products to which PFAS have been intentionally added on or after January 1, 2029.

(2) The prohibitions of this subsection shall not apply to the sale or resale of used products;

(c) (1) No manufacturer, distributor, wholesaler or retailer shall offer for sale, sell or distribute in the commonwealth any consumer product that the department has identified for restriction, including but not limited to priority products, to which PFAS have been intentionally added, unless the department, in consultation with the department of environmental protection and the Toxics Use Reduction Institute, has determined that the use of PFAS in the consumer product is a currently unavoidable use and grants a temporary exemption at intervals of no more than ~~6~~ 4 years.

(2) The department may assess a fee to cover the department's reasonable costs and to support the purposes outlined in this section payable by a manufacturer, distributor, wholesaler or retailer upon submission of an unavoidable use exemption request under section (c) paragraph (5). Fees collected under this paragraph shall be deposited into the PFAS Public Health Trust Fund established under section (ji) to be administered by the department for the purposes outlined in this section.

(3) In the event that the department makes such a determination and grants an unavoidable use exemption, the department may require the manufacturer, distributor, wholesaler or retailer to label the product or products in a form and manner determined by the department.

(4) The prohibitions of this subsection shall not apply to (1) the sale or resale of used consumer products ~~or a product used in a manner that has been approved or authorized by a federal or state agency, including: (1) Drugs, medical devices, biologics or diagnostics approved or authorized by the Federal Food and Drug Administration or the United States Department of Agriculture or otherwise subject to regulation under the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. § 301 et seq~~ product components; (2) ~~Packaging for drugs, medical devices, biologics, diagnostics or [non-pulp-based packaging a product for] food approved or authorized by the~~ which Federal Food and Drug Administration or law governs the United States Department presence of Agriculture or is otherwise PFAS in scope of the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. § 301 et seq (3) ~~Products registered or authorized for use under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136 et seq.~~ (4) ~~Substances designated by rulemaking or otherwise as acceptable substitutes~~ product in specific uses under U.S. EPA's Significant New Alternatives Policy a manner that preempts state authority; (SNAP3) program, A prescription drug or substitutes needed to execute the American Innovation and Manufacturing (AIM) Act medical

~~device; and or (54) Finished products certified or regulated by the Federal Aviation Administration or the Department packaging associated with any of Defense, or both, when used the items specified in a manner that was certified or regulated by such agencies, including parts, materials, and processes when used to manufacture or maintain such regulated or certified finished products. paragraph (c)~~

(5) Consumer products or product categories in which the use of PFAS is a currently unavoidable use, as determined by the department, may be exempted for a fee to cover the department's reasonable costs and to support the purposes outlined in this section; ~~pursuant to a process established years~~. Fees collected under this paragraph shall be deposited into the PFAS Public Health Trust Fund established under section (ji) to be administered by the department for the purposes outlined in this section.

(6) Annually, not later than December 31, the department shall file a report on the manufacturers, distributors, wholesalers or retailers submitting unavoidable use exemption requests with the clerks of the house of representatives and the senate, the joint committee on public health, and shall make the report available on the department's website. The report shall include, but not be limited to: (i) the full name of the manufacturer, distributor, wholesaler or retailer applying for an unavoidable use exemption; (ii) if the department granted the manufacturer, distributor, wholesaler or retailer an exemption or not; (iii) the department's reasoning for granting the exemption; and (iv) the length of the exemption.

(d)(1) The department shall, in consultation with the department of environmental protection and the Toxics Use Reduction Institute, prepare a study of significant PFAS uses in consumer products **and product categories** not subject to this section using publicly available information, within 4 years of the passage of this law, and shall update the study ~~within 7 every 3 years of the passage of this law thereafter~~. The study shall consider whether: (i) safer alternatives to PFAS are reasonably available; (ii) the function provided by PFAS in the product is necessary for the product to perform its primary function as determined by the department; ~~and~~ (iii) the use of PFAS in the product is essential for health or safety. The report shall recommend additional **consumer** products and product categories to be considered for restriction under this section. **The department's recommendations shall prioritize the restriction of consumer products and product categories that, in the department's judgement, in consultation with the department of environmental protection and the Toxics Use Reduction Institute, are most likely to contaminate or harm the state's environment and natural resources if they contain intentionally added PFAS.**

~~(d)~~(2) The department **may shall** adopt regulations to implement this section. The department **may shall** adopt regulations to establish additional consumer products and product ~~components~~ **categories identified through the report pursuant to paragraph (1)** to be considered priority products **for restriction** covered by this section. ~~In identifying additional product categories for analysis,~~ the department shall consult with

Toxics Use Reduction Institute and the department of environmental protection **when identifying additional priority product categories and consumer products to which PFAS have been intentionally added for restriction.**

(e) The attorney general shall have the authority to enforce the provisions of this section pursuant to G.L. c. 93A, § 4.

(f) (1) Notwithstanding any general or special law to the contrary, the department of public health shall establish, on or before June 1, 2028, a publicly accessible reporting platform to collect information about per- and polyfluoroalkyl substances, or "PFAS", and consumer products or product components containing PFAS being sold, offered for sale, distributed or offered for promotional purposes in, or imported into, the state. The department may consult with Interstate Chemicals Clearinghouse and may collaborate with other states with prohibitions on PFAS to establish such a platform.

(2) On or before June 1, 2028, and on or before June 1 of each year thereafter, a manufacturer of PFAS or **of a consumer priority product, additional consumer products identified for restriction by the department** or product component containing intentionally added PFAS that is sold, offered for sale, distributed or offered for promotional purposes in, or imported into, the state shall register the PFAS or the consumer product or product component containing intentionally added PFAS on the publicly accessible reporting platform created pursuant to paragraph (1), along with all of the following information, as applicable: (i) the name and type of consumer product or product component containing intentionally added PFAS; (ii) the universal product code, or "UPC," of the consumer product or product component containing intentionally added PFAS; (iii) **the specific names of all PFAS compounds in the priority consumer product or product component containing intentionally added PFAS and the Chemical Abstracts Service Registry Number, also known as a "CAS Registry Number" or "CAS RN," of each PFAS compound;** (iv) **the amount of the consumer product or the product component or the numbers of consumer products or product components sold, delivered or imported into the state;** (v) the name and address of the manufacturer, and the name, address and phone number of the contact person for the manufacturer; and **(ivvi)** any additional information established by the department as necessary to implement the requirements of this section.

(3) A manufacturer may supply the information required in paragraph (2) for a category or type of consumer product rather than for each individual product.

(4) In a manner determined by the department, a manufacturer shall update and revise the information required under paragraph (2) whenever there is a significant change in the information or when requested to do so by the department.

(5) The department may establish by regulation and assess a fee payable by a manufacturer upon submission of the notification required under paragraph (2) to cover

the department's reasonable costs in developing and administering this section and to support the purposes outlined in this section collected under this paragraph shall be deposited into the PFAS Public Health Trust Fund established under section (j) to be administered by the department for the purposes outlined in this section.

(6) Any information submitted to, or developed by, the department in furtherance of this section, except for the specific information required to be disclosed in subsection (f)(2) of this section shall not be a public record and shall be exempt from disclosure under clause twenty-sixth of section 7 of chapter 4 and section 10 of chapter 66 of the General Laws.

(g) (1) A manufacturer of consumer products registered under paragraph (2) of subsection (f) shall send an electronic notification to distributors and wholesalers of the consumer product that the consumer product contains PFAS.

(2) A distributor or wholesaler who receives a notification pursuant to paragraph (1) shall send an electronic notification to retailers of the consumer product that the consumer product contains PFAS.

(3) The department shall adopt regulations to implement this subsection.

(4) The attorney general shall have the authority to enforce the provisions of this subsection under G.L. c. 93A, § 4.

(h) (1) A manufacturer of any priority products that are sold, offered for sale, distributed or offered for promotional purposes in, or imported into, the state shall establish an audit program to test for the presence of unintentionally added PFAS using analytical methods approved by the department in consultation with the department of environmental protection and the Toxics Use Reduction Institute.

(2) The department shall establish by regulation and assess a fee payable by a manufacturer under paragraph (1) to cover the department's reasonable costs in testing a consumer product for the presence of unintentionally added PFAS at the request of a manufacturer. Fees collected under this paragraph shall be deposited into the PFAS Public Health Trust Fund established under section (j) to be administered by the department for the purposes outlined in this section.

(i) (1) There shall be a PFAS Public Health Trust Fund. Expenditures from the fund shall be made by the department, without further appropriation and consistent with this section, and consistent with the terms of other allocations and monies transferred to this fund, as applicable. The commissioner shall administer the fund for purposes outlined in this section, and may make expenditures from the fund to develop and implement a multilingual outreach and education campaign pursuant to section 29 of chapter 21A of the General Laws.

(2) The fund shall be expended to support the education of Massachusetts residents of PFAS contamination across the commonwealth and the potential health impacts of PFAS exposure, to mitigate the impacts of PFAS in consumer products in the commonwealth, and to support the development of PFAS-free alternatives by the Toxic Use Reduction Institute. The commissioner shall make necessary expenditures from this account for the shared administrative costs of the operations and programs of the department related to the fund, including but not limited to the unavoidable use exemption process under section (c) paragraph (5) and the testing a consumer product for the presence of unintentionally added PFAS. The commissioner shall further direct that monies from the fund shall be expended to provide services in an amount reasonably related to such administrative costs. No expenditure shall be made from the fund that would cause the fund to be in deficit at the close of a fiscal year. Amounts credited to the fund shall not be subject to further appropriation and monies remaining in the fund at the end of the fiscal year shall not revert to the General Fund, but shall instead be available for expenditure during subsequent fiscal years. Any fiscal year-end balance in the fund shall be excluded from the calculation of the consolidated net surplus pursuant to section 5C of chapter 29 of the General Laws.

(3) There shall be credited to the fund: (i) fees payable by a manufacturer, distributor, wholesaler or retailer upon submission of an unavoidable use exemption request under section (c) paragraph (5); (ii) transfers from other funds authorized by the general court and so designated; (iii) funds from public or private sources, including, but not limited to, gifts, grants, donations, rebates, settlements, judgments, awards, and other allocations received by the commonwealth designated to the fund; and (iv) any interest earned on such amounts.

SECTION 6 (formerly Section 9 in in HB2450)

MGL 22D:7

Modified

SECTION ~~9~~ **6**. Chapter 22D of the General Laws is hereby amended by inserting after section 6 the following ~~sections~~ **section**:-

Section 7. (a) The following terms shall, unless the context clearly requires otherwise, have the following meanings:

"Department", department of fire services

"Intentionally added", PFAS that is added to a product, or enters the product from the manufacturing or processing of that product; and the addition of PFAS is known or reasonably ascertainable by the manufacturer. "Intentionally added" PFAS also includes any degradation by-products of PFAS or the use of PFAS or PFAS precursors as a processing agent, mold release agent, or the creation of PFAS via chemical reactions.

"Known or reasonably ascertainable", all information in a person's possession or

control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know.

"Per- and polyfluoroalkyl substances" or "PFAS", a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(b) Notwithstanding any general or special law to the contrary, no person, local government or state agency shall use a Class B firefighting foam that contains intentionally added PFAS in any amount for training ~~or~~, testing, **or emergency response** purposes.

(c) Any person, unit of local government, fire department, or state agency that discharges or releases Class B firefighting foam that contains intentionally added PFAS must notify the department of environmental protection's emergency response line as soon as possible but no later than within 24 hours of the discharge or release.

~~(d) The department shall assist the department of public health's Occupational Health Surveillance Program in collecting data on occupational exposure to PFAS, including, but not limited to, firefighters.~~ The restrictions in ~~subsections subsection~~ **(b) and (e)** of this section do not apply to any manufacture, sale, or distribution of class B firefighting foam where the inclusion of PFAS chemicals are required by federal law, including but not - limited to the requirements of 14 C.F.R. 139.317, as that section existed as of January 1, 2025. In the event that applicable federal regulations change after January 1, 2025, to allow the use of alternative firefighting agents that do not contain PFAS chemicals, the restrictions set forth in ~~subsections subsection~~ **(b) and shall apply.**

~~(e)~~ **The department shall apply assist the department of public health's Occupational Health Surveillance Program in collecting data on occupational exposure to PFAS, including, but not limited to, firefighters.**

SECTION 7 (formerly Section 10 in in HB2450)

MGL 61A:12

Modified

SECTION ~~10~~ **7**. Section 12 of chapter 61A of the General Laws is hereby amended by inserting after the second paragraph the following paragraph:-

No conveyance tax under this section shall be assessed on land that is removed from agricultural or horticultural use due to regulatory action regarding the actual or suspected presence of PFAS in soil, water, or agricultural products derived from such land. For the purposes of this paragraph, "PFAS" shall mean a class of fluorinated organic compounds containing at least one fully fluorinated carbon atom. The commissioner of agricultural resources, in consultation with the commissioner of revenue and the commissioner of environmental protection, may promulgate regulations to enforce this paragraph.

Deleted

~~SECTION 7. Chapter 111 of the General Laws is hereby amended by inserting after section 244 the following sections:-~~

~~Section 245. (a) The following terms shall, unless the context clearly requires otherwise, have the following meanings:-~~

~~"Firefighting personal protective equipment" means any clothing designed, intended or marketed to be worn by firefighting personnel in the performance of their duties, designed with the intent for the use in fire and rescue activities, including but not limited to: jackets, pants, shoes/boots, gloves, helmets and respiratory equipment.~~

~~"Intentionally added", PFAS that is added to a product, or enters the product from the manufacturing or processing of that product; the addition of which is known or reasonably ascertainable by the manufacturer. "Intentionally added" PFAS also includes any degradation by products of PFAS or the use of PFAS or PFAS precursors as a processing agent, mold release agent, or the creation of PFAS via chemical reactions.~~

~~"Known or reasonably ascertainable", all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know.~~

~~"Local governments" includes any county, city, town, fire district, regional fire protection authority, or special purpose district that provides firefighting services.~~

~~"Manufacturer", any person, firm or corporation that manufactures or distributes firefighting agents or firefighting equipment. In the case of a product imported into the United States, "manufacturer" includes the importer or first domestic distributor of the product if the person that manufactured or assembled or whose brand name is affixed to the product does not have a presence in the United States.~~

~~"Per- and polyfluoroalkyl substances" or "PFAS", a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.~~

~~(b) (1) A manufacturer or other person that sells firefighting personal protective equipment containing PFAS to any person, local government or state agency shall provide written notice to the purchaser at the time of sale: (i) that the firefighting personal protective equipment contains PFAS; (ii) the reason PFAS are added to the equipment; and (iii) the specific PFAS within the product listed by chemical name and abbreviated name.~~

~~(2) The manufacturer or other person selling firefighting personal protective equipment and the purchaser of the equipment shall retain a copy of the notice required pursuant~~

~~to this subsection on file for at least 3 years from the date of the purchase. Upon the request of the department, a person, manufacturer, or purchaser shall furnish the notice, or written copies, and associated sales documentation to the department within 60 days of such request.~~

SECTION 8 (formerly Section 11 in in HB2450)

MGL 61A:13

Modified

SECTION ~~11~~ 8. Section 13 of chapter 61A of the General Laws is hereby amended by adding the following subsection:-

(e) No roll-back tax imposed by this section shall be assessed on land that no longer meets the definition of land actively devoted to agricultural, horticultural or agricultural and horticultural use due to regulatory action regarding the actual or suspected presence of PFAS in soil, water, or agricultural products derived from such land. For the purposes of this subsection, "PFAS" shall mean a class of fluorinated organic compounds containing at least one fully fluorinated carbon atom. The commissioner of agricultural resources, in consultation with the commissioner of revenue and the commissioner of environmental protection, may promulgate regulations to enforce this subsection.

SECTION 8

MGL 111:246 Subsection B

Deleted

~~SECTION 8. Said section 246 of said chapter 111 of the General Laws, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-~~

~~(b) A manufacturer or other person that sells firefighting personal protective equipment to any person, local government, or state agency shall not manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in the commonwealth any firefighting personal protective equipment containing intentionally added PFAS.~~

SECTION 9

Modified

SECTION ~~12~~ 9. The department of public health, in consultation with department of environmental protection and the department of agricultural resources, shall procure or otherwise employ an external research organization, which has the capacity to study per- and polyfluoroalkyl substances and the effect PFAS has on agricultural products produced and sold in the commonwealth; provided, that the research organization shall have: (1) extensive experience with a wide variety of agricultural products and environmental matrices, including, 2 of 2 but not limited to, plants and animals; (2) a current QAPP ("Quality Assurance Project Plan") through the United States Environmental Protection Agency; (3) current sampling and chain of custody protocols; (4) experience handling complex agricultural matrices; and (5) access to state-of-the-art mass spectrometers. The study shall include findings on the levels of PFAS found in: (1)

in agricultural products sold in Massachusetts stores; (2) locally sourced agricultural products; and (3) agricultural inputs including, but not limited to, feed, water, fertilizer, and pesticides. The department shall make said report publicly available with the department's findings on the department's website. The commissioner shall file a progress report in writing of the findings, including food and agricultural sources of contamination, within 365 days of the passage of this act; provided, that the report shall be filed with the house and senate committees on ways and means, the joint committee on environment and natural resources, the joint committee on public health, and the joint committee on agriculture on or before August 31, 2025.

SECTION 10 (formerly Section 13 in in HB2450)

MGL 21:43B

Modified

SECTION ~~13~~ 10. Subsection (c) of said section 43B of said chapter 21 shall take effect two years after United States Environmental Protection Agency Method 1633 is available to the public.

SECTION 11 (formerly Section 14 in in HB2450)

Modified

SECTION ~~14~~ 11. Section 3 shall take effect January 1, 2030.

SECTION 12 (formerly Section 15 in in HB2450)

MGL 111:5T

Modified

SECTION ~~15~~ 12. Subsection (b) of Section 5T of said chapter 111 shall take effect January 1, ~~2030~~ 2028.

SECTION 13 (formerly Section 16 in in HB2450)

MGL 111:5U

Modified

SECTION ~~16~~ 13. Subsection (b) of said section 5U of said chapter 111 shall take effect January 1, 2029.

SECTION 14 (formerly Section 17 in in HB2450)

MGL 111:5U

Modified

SECTION ~~17~~ 14. Subsection (c) of said section 5U of said chapter 111 shall take effect January 1, 2035.

SECTION 15

MGL 111:5U

New

SECTION 15. Additional product categories added under subsection (d) of said section 5U of said chapter 111 shall take effect three years after the product category has been added for restriction by the department.

SECTION 16 (formerly Section 18 in in HB2450)

MGL 111:5U Paragraph (1)

Modified

SECTION ~~18~~ **16**. Paragraph (1) of said subsection (g) of said section 5U of said chapter 111 shall take effect June 1, 2030.

SECTION 17 (formerly Section 19 in in HB2450)

MGL 111:5U

Modified

SECTION ~~19~~ **17**. Subsection (h) of said section 5U of said chapter 111 shall take effect January 1, 2030.

SECTION 18 (formerly Section 20 in in HB2450)

MGL 111:5U

Modified

SECTION ~~20~~ **18**. Subsection (i) of said section 5U of said chapter 111 shall take effect January 1, 2035.

SECTION 19 (formerly Section 21 in in HB2450)

MGL 111:245

Modified

SECTION ~~21~~ **19**. Section 245 of said chapter 111 shall take effect on the 180th day following enactment.

SECTION 20 (formerly Section 22 in in HB2450)

MGL 111:246

Modified

SECTION ~~22~~ **20**. Section 246 of said chapter 111 shall take effect January 1, 2028.

SECTION 21 (formerly Section 23 in in HB2450)

Modified

SECTION ~~23~~ **21**. Section 3 shall take effect on the 180th day following enactment.

SECTION 22 (formerly Section 24 in in HB2450)

Modified

SECTION ~~24~~ **22**. Section 7 shall take effect January 1, 2029.

SECTION 23 (formerly Section 25 in in HB2450)

Modified

SECTION ~~25~~ **23**. Section 12 shall take effect no later than 180 days after passage of this act.