

# Governor Newsom Vetoes PFAS Reporting Bill But Signs Into Law Legislation Banning PFAS in Cosmetics and Textiles

## Publications

October 6, 2022

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On September 29, 2022, Governor Gavin Newsom vetoed Assembly Bill No. 2247. The bill would have required manufacturers of per- and polyfluoroalkyl substances (PFAS) or products or product components containing intentionally added PFAS to register the PFAS or products or product components on a publicly accessible data collection interface, along with other information. According to the bill's findings and declarations, the registration requirement would, among other things, provide California with timely information that would help the state characterize the threats of further PFAS contamination and human exposure in California and develop best practices for addressing the threats in an expeditious manner.

"Manufacturer" was defined to include, in addition to manufacturers, importers of PFAS or products or product components containing intentionally added PFAS, persons or entities whose names appear on product labels, and persons or entities for whom the PFAS or products or product components are manufactured or distributed. Registration would have been required on or before July 1, 2026, and on or before July 1 of each year thereafter. The registration requirement would not have applied to certain products regulated by federal law, such as drugs, medical devices and equipment, dietary supplements, and certain products intended for animals.

In Governor Newsom's veto message, he explained that the bill may be premature given that EPA is currently undergoing rulemaking to require reporting of PFAS and noted cost concerns.

On the same day as the veto, Governor Newsom approved both Assembly Bill No. 2771, which bans intentionally added PFAS in cosmetic products, and Assembly Bill No. 1817, which bans regulated PFAS in textile articles.

### *Cosmetic Products*

Assembly Bill No. 2771 will, beginning January 1, 2025, prohibit the "manufacture, sale, delivery, holding, or offering for sale in commerce any cosmetic product that contains intentionally added" PFAS. Cal. Health & Safety Code § 108981.5. "Cosmetic product" is defined as "an article for retail

sale or professional use 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.” *Id.* § 108982(a). “Intentionally added PFAS” means either “PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect on the product” or “PFAS that are intentional breakdown products of an added chemical.” *Id.* § 108982(c).

### *Textile Articles*

Assembly Bill No. 1817 states that, “commencing January 1, 2025, no person shall manufacture, distribute, sell, or offer for sale in the state any new, not previously used, textile articles that contain regulated . . . PFAS.” Cal. Health & Safety Code § 108971(a)(1). “Textile” is defined as “any item made in whole or part from a natural, manmade, or synthetic fiber, yarn, or fabric,” but the definition does not include “single-use paper hygiene products.” *Id.* § 108970(h).

“Textile Articles” are defined as “textile goods of a type customarily and ordinarily used in households and businesses,” but there are various identified exemptions. *Id.* § 108970(i). Regulated PFAS means either “PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product” or the presence of PFAS in a product or product component, measured in total organic fluorine, at or above 100 parts per million (commencing January 1, 2025) and 50 parts per million (commencing January 1, 2027). *Id.* § 108970(g).

The enacted bill further provides that manufacturers “shall use the least toxic alternative, including alternative design, when removing regulated . . . PFAS in textile articles.” *Id.* § 108971(b). Lastly, it requires manufacturers to provide persons that offer the product for sale or distribution in California a certificate of compliance and protects distributors or retailers (that are not also manufacturers) that rely in good faith on these certificates from being held in violation of the chapter. *Id.* § 108971(c), (d).

The prohibition against regulated PFAS in textile articles does not apply to outdoor apparel for severe wet conditions until January 1, 2028, but commencing January 1, 2025, such apparel must be accompanied by a disclosure statement “Made with PFAS chemicals,” including for online listings. *Id.* § 108971(a)(2).

These new laws now join other legal developments in California that aim to regulate PFAS in consumer products. For example, Assembly Bill No. 1200 and Assembly Bill No. 652, both approved on October 5, 2021, address PFAS in food packaging and cookware and children’s products, respectively. As states like California continue to move forward with legal developments aimed at addressing PFAS, so is the federal government. We will continue tracking PFAS developments in the Corporate Environmental Law Blog.

## Related Attorneys



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