



2019 ASSEMBLY BILL 952

February 24, 2020 - Introduced by Representatives GRUSZYNSKI, STUCK, C. TAYLOR, HEBL, POPE, CONSIDINE, CABRERA and STUBBS, cosponsored by Senators CARPENTER, RINGHAND, SMITH and L. TAYLOR. Referred to Committee on Environment.

1 **AN ACT** *to create* 299.48 of the statutes; **relating to:** regulating certain
2 chemicals in food packaging.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Natural Resources to determine, no later than January 1, 2021, whether a safer alternative exists for perfluoroalkyl and polyfluoroalkyl substances (PFAS) in food packaging applications. The bill defines “safer alternative” as an alternative that 1) would reduce the potential for harm to human health or the environment; 2) is readily available in sufficient quantity and at a comparable cost to PFAS; 3) performs as well or better than PFAS; and 4) if the alternative is a chemical, has been approved for food contact by the federal Food and Drug Administration. The bill requires DNR to submit a report on its determinations to the Legislative Reference Bureau no later than January 1, 2021, for publication in the Wisconsin Administrative Register.

Under the bill, if DNR determines in its January 1, 2021, report that there is a safer alternative to PFAS in a specific type of food packaging application, then no person may manufacture, sell, or distribute that type of food packaging if it contains PFAS beginning January 1, 2023.

If DNR determines in its January 1, 2021, report that there is no safer alternative to PFAS in a specific type of food packaging application, the bill requires DNR to annually review whether a safer alternative for that food packaging application exists, and whether safer alternatives exist for new food packaging applications. If DNR determines at any time that safer alternatives exist, DNR must submit a report on its determination to the LRB for publication in the Wisconsin

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Administrative Register. If DNR makes such a determination, then no person may manufacture, sell, or distribute that type of food packaging if it contains PFAS beginning two years after the date of publication of the applicable report.

A person who violates the bill's prohibitions is subject to the same penalty that applies under current law to other general environmental provisions, which is a forfeiture of between \$10 and \$5,000 for each violation.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 299.48 of the statutes is created to read:

2 **299.48 Food packaging containing PFAS. (1) DEFINITIONS.** In this section:

3 (a) "PFAS" means a perfluoroalkyl or polyfluoroalkyl substance.

4 (b) "Safer alternative" means an alternative that, when compared to PFAS,
5 would reduce the potential for harm to human health or the environment or that has
6 not been shown to pose the same or greater potential for harm to human health or
7 the environment; is readily available in sufficient quantity and at a comparable cost
8 to PFAS; performs as well or better than PFAS; and, if the alternative is a chemical,
9 has been approved for food contact by the federal food and drug administration.

10 **(2) ALTERNATIVES ASSESSMENTS.** (a) The department, in consultation with the
11 Department of Health Services, shall determine whether safer alternatives to PFAS
12 in food packaging applications exist. The department shall provide a report on its
13 determinations under this paragraph to the legislative reference bureau no later
14 than January 1, 2021, and the legislative reference bureau shall publish the report
15 in the Wisconsin Administrative Register under s. 35.93 (2).

16 (b) If the department determines in its report under par. (a) that a safer
17 alternative to PFAS in a specific type of food packaging application does not exist, the
18 department shall annually review whether a safer alternative for that food

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1 packaging application exists, and whether safer alternatives for new food packaging
2 applications exist. If at any time the department determines that safer alternatives
3 exist, the department shall provide a report on its determinations to the legislative
4 reference bureau and the legislative reference bureau shall publish the report in the
5 Wisconsin Administrative Register under s. 35.93 (2).

6 **(3) PROHIBITION.** (a) If the department determines that a safer alternative to
7 PFAS in a specific type of food packaging application exists under sub. (2), no person
8 may manufacture, sell, offer for sale, or distribute that type of food packaging if it
9 contains intentionally added PFAS.

10 (b) If the department determines that a safer alternative exists in a report
11 published under sub. (2) (a), the prohibition under par. (a) shall be effective on
12 January 1, 2023. If the department determines that a safer alternative exists in a
13 report published under sub. (2) (b), the prohibition under par. (a) shall be
14 effective 2 years after publication of that report.

15 **(END)**