



April 14, 2022

**SUPPORT HB 22-1345**  
**Perfluoroalkyl and Polyfluoroalkyl Chemicals Consumer Protection Act**

Delegate Alex Valdez  
Chair, House Energy and Environment Committee  
Colorado General Assembly  
200 E. Colfax Ave.  
Boulder, CO 80203

Dear Chair Valdez and Committee members:

Consumer Reports writes to strongly urge you to protect Colorado residents from exposure to a class of chemicals that threaten public health by supporting HB 22-1345 – An act banning intentional use of perfluoroalkyl and polyfluoroalkyl substances (PFAS) in rugs and carpets, cookware, cosmetics, fabrics treatment, food packaging, juvenile products, oil and gas products, textile furnishings and upholstered furniture. The bill would also require manufacturers of products containing intentionally added PFAS that are sold or distributed within Colorado to notify the state of the name of the product and the particular uses of the PFAS added to that product. There is an urgent need for the enactment of this bill.

Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization - with some 60,000 members in Colorado - that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to 6 million members across the U.S.

PFAS are a group of more than 9,000 chemicals that are very widespread and dangerous. Three characteristics of PFAS make them especially dangerous to humans. First, they are extremely persistent, resistant to breaking down naturally in the environment and remaining in people's bodies for years. This is why they have been described as "forever chemicals." Second, they are highly mobile, spreading quickly in the environment and prevalent throughout our environment. Finally, they can be toxic at very low doses—even at parts per trillion levels, they have been associated with a variety of severe health effects, including cancer and suppression of the immune system making vaccines less effective.

Because PFAS are so persistent, prevalent, and toxic, they must be regulated. Indeed, given their widespread use, PFAS are detectable in the blood of 97 percent of people in the United States.<sup>[1]</sup>

Some of the toxic effects associated with exposure to these chemicals include immunotoxicity, cancer, thyroid disease, birth defects, and decreased sperm quality.<sup>[2]</sup> They reduce the immune response to childhood vaccines and may increase the risk of infectious disease.<sup>[3]</sup> In addition, PFAS exposure has been directly linked to several underlying conditions that make people more vulnerable to severe symptoms of COVID-19, including obesity, asthma, kidney disease, and high cholesterol.<sup>[4]</sup> Compared to people with no underlying conditions, patients who have these conditions are six times as likely to be hospitalized with COVID-19 and 12 times as likely to die of the disease.<sup>[5]</sup>

PFAS also are referred to as “everywhere chemicals” because among the ways that consumers can be exposed to PFAS are through food, water, and consumer products that contain PFAS, and contaminated soil, dust and air. Disposal of PFAS can also result in PFAS in drinking water. CR testing of Colorado drinking water found total PFAS levels of 37.9 ppt in Highlands Ranch and 22.49 ppt in Conifer,<sup>[6]</sup> both above CR’s recommended limit of total PFAS of 10 ppt.<sup>[7]</sup>

HB 22-13 would require manufacturers of products containing intentionally added PFAS that are sold or distributed within Colorado to notify the state of the name of the product and the particular uses of the PFAS added to that product. Such information is needed if the state is to take action against a broad range of consumer products with intentionally added PFAS. The bill also would allow products that do not contain intentionally added PFAS to be considered as “environmentally preferable products,” defined as products that have a lesser or reduced adverse effect on human health and the environment when compared with competing products that serve the same purpose, that the state will preferentially purchase.

Some manufacturers add PFAS to food packaging to make it water- and grease-resistant, which can contaminate the food with which it comes into contact. Indeed, the Food and Drug Administration (FDA) last year reported in 2019 that it had detected PFAS in a variety of foods purchased around the country, including produce, meats and seafood.<sup>[8]</sup> People are exposed when they eat the contaminated food. In a more recent test, PFAS were detected in the packaging of foods sold by major retailers.<sup>[9]</sup> CR recently published a story involving testing of 118 food packaging products that found PFAS had been intentionally added to almost a third (37 products) of the products.<sup>[10]</sup> This prompted some retailers to announce a switch to safer alternatives, thereby demonstrating the availability of and feasibility of non-PFAS food packaging.

EPA’s 2015 Significant New Use Rule for PFOA- and PFOA-related chemicals provided a definition for a category of a subgroup of the so-called long-chain PFAS chemicals, which are defined as having 8 or more carbon atoms. The idea was that these long-chain PFAS have more persistent in the environment and more likely to bioaccumulate than short-chain PFAS (having 7 or fewer carbon atoms), and so short-chain PFAS should be not persist in the body, so would not bioaccumulate and would consequently be less toxic.

These short-chain PFAS emerged as a replacement to long-chain PFAS in food packaging due to safety concerns in 2011.<sup>[11]</sup> Indeed, beginning in 2011, FDA started working with industry to get them to voluntarily remove long-chain PFAS as food contact materials. In 2016, FDA had revoked the regulation of the remaining uses of long-chain PFAS in food packaging (see 81 FR 5, January 4, 2016 and 81 FR 83672, November 22, 2016).<sup>[12]</sup> Again, the thinking was that the short-chain PFAS should be relatively safe for use as food contact substances.

However, in July 2020, FDA announced a voluntary phase out of use of certain short-chain PFAS (6:2 FTOH) for use as food contact substances after FDA scientists published their analyses of certain short-chain PFAS that showed that they did persist in rodent studies, such that “the data suggest the potential of 6:2 FTOH to also persist in humans from chronic dietary exposure. Further scientific studies are needed to better understand the potential human health risks from dietary exposure to food contact substances that contain 6:2 FTOH.”<sup>[13]</sup>

In addition, an October 2021 EPA toxicity assessment of a short chain PFAS, GenX chemicals (a replacement for PFOA), show that GenX chemicals are more toxic than PFOA.<sup>[14]</sup> Thus, the short-chain PFAS are not necessarily less persistent in the human body and nor significantly less toxic than long-chain PFAS. In addition, a study published in 2020 looked at the Key Characteristics of Carcinogens framework for cancer hazard identification for 26 PFAS chemicals, including long-chain and short-chain PFAS, and found that all 26 chemicals had at least one key characteristic of a carcinogen.<sup>[15]</sup> These studies suggest that short-chain PFAS are not necessarily safer than the long-chain PFAS that they are replacing.

Since many PFAS are so resistant to break down, their presence in food ware means that they will leach out in the landfill and enter the environment. In addition, the increase in the consumption of take-out foods as a result of the pandemic has increased the risk of consumer exposure to PFAS.

There are alternatives to PFAS-treated food ware, and major retailers and restaurants including Panera Bread, Taco Bell, Chipotle, Whole Foods Market, Sweetgreen, Cava, Freshii,<sup>[16]</sup> McDonald's,<sup>[17]</sup> Trader Joe's,<sup>[18]</sup> Ahold Delhaize,<sup>[19]</sup> Rite Aid,<sup>[20]</sup> Amazon.com,<sup>[21]</sup> Wendy's,<sup>[22]</sup> Chick-Fil-A,<sup>[23]</sup> Burger King,<sup>[24]</sup> Popeye's,<sup>[25]</sup> and Tim Hortons<sup>[26]</sup> have already started the switch to these safer alternatives.

PFAS use in rugs, carpets, and upholstered furniture can result in PFAS being present on dust and in indoor airs, due to aging and PFAS evaporation.<sup>[27]</sup> In addition, the hand-to-mouth and close proximity to the floor of toddlers means that PFAS levels can be higher in toddlers compared to adults both in residential homes and child care environments.<sup>[28]</sup> Banning use of rugs and carpets treated with PFAS or aftercare stain and water treatments containing PFAS should help reduce exposure of infants and toddlers to PFAS.

## Conclusion

The enactment of HB 22-1345 would represent significant progress toward protecting consumers from exposure to PFAS through consumer products, especially food packaging. Colorado could join California, Connecticut, Maine, Maryland, Minnesota, New York, Vermont and Washington in banning PFAS from food packaging materials. The bill also would protect against exposure to PFAS from rugs and carpets, cookware, cosmetics, fabrics treatment, juvenile products, oil and gas products, textile furnishings and upholstered furniture. We strongly urge you to support this legislation.

Sincerely,

Michael Hansen, Ph.D.  
Senior Scientist  
Consumer Reports  
101 Truman Ave.  
Yonkers, NY 10703

Brian Ronholm  
Director, Food Policy  
Consumer Report  
101 Truman Ave.  
Yonkers, NY 10703

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[<sup>1</sup>] Lewis RC, Johns LE, Meeker JD. 2015. Serum Biomarkers of Exposure to Perfluoroalkyl Substances in Relation to Serum Testosterone and Measures of Thyroid Function among Adults and Adolescents from NHANES 2011-2012. *Int J Environ Res Public Health*. 12(6): 6098-6114. At:

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[<sup>2</sup>] <https://www.atsdr.cdc.gov/pfas/health-effects/index.html>

[<sup>3</sup>] Grandjean P and E Butdz-Jørgensen. 2013. Immunotoxicity of perfluorinated alkylates: calculation of benchmark doses based on serum concentrations in children. *Env Health* 12(35). At:

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[<sup>4</sup>] <https://www.atsdr.cdc.gov/pfas/health-effects/index.html>

[<sup>5</sup>] Stokes EK, Zambrano LD, Anderson KN et al. 2020. Coronavirus Disease 2019 Case Surveillance—United States, January 22-May 30, 2020. *MMWR Morb Mortal Wkly Rep* 2020; 69:759-765. DOI:

<http://dx.doi.org/10.15585/mmwr.mm6924e2>

[<sup>6</sup>]

[https://article.images.consumerreports.org/prod/content/dam/CRO-Images-2021/Health/05May/Consumer\\_Reports\\_Tap\\_Water\\_Test\\_Results\\_May\\_2021](https://article.images.consumerreports.org/prod/content/dam/CRO-Images-2021/Health/05May/Consumer_Reports_Tap_Water_Test_Results_May_2021)

[<sup>7</sup>] <https://www.consumerreports.org/water-quality/how-safe-is-our-drinking-water-a0101771201/>

[<sup>8</sup>]

<http://blogs.edf.org/health/2019/11/20/fdas-updated-results-for-pfas-in-food-suggest-progress-but-raise-questions-about-its-method/>

[<sup>9</sup>] <https://toxicfreefuture.org/packaged-in-pollution/>

[<sup>10</sup>] Loria, K. 2022. Dangerous PFAS Chemicals are in Your Food Packaging. Consumer Reports. June 2022 issue. At:

<https://www.consumerreports.org/pfas-food-packaging/dangerous-pfas-chemicals-are-in-your-food-packaging-a3786252074/>

[<sup>11</sup>] <https://www.fda.gov/food/chemicals/authorized-uses-pfas-food-contact-applications>

[<sup>12</sup>] *Id.*

[13]

<https://www.fda.gov/news-events/press-announcements/fda-announces-voluntary-agreement-manufacturers-phase-out-certain-short-chain-pfas-used-food>

[14] [https://www.epa.gov/system/files/documents/2021-10/genx-final-tox-assessment-general\\_factsheet-2021.pdf](https://www.epa.gov/system/files/documents/2021-10/genx-final-tox-assessment-general_factsheet-2021.pdf)

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[17] <https://corporate.mcdonalds.com/corpmcd/our-purpose-and-impact/our-planet/packaging-and-waste.html/asdf>

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<https://www.bizjournals.com/bizwomen/news/latest-news/2019/03/trader-joes-pledges-to-eliminate-1-million-pounds.html?page=all>

[19] <https://www.grocerydive.com/news/ahold-delhaize-pledges-to-clean-up-its-store-brands/563352/>

[20] <https://www.riteaid.com/corporate/chemical-policy>

[21] [https://sustainability.aboutamazon.com/amazon\\_chemicals\\_policy\\_food.pdf](https://sustainability.aboutamazon.com/amazon_chemicals_policy_food.pdf)

[22] Pg. 34 in [https://www.wendys.com/sites/default/files/2021-04/Wendys-2020-CSR-0419\\_FINAL.pdf](https://www.wendys.com/sites/default/files/2021-04/Wendys-2020-CSR-0419_FINAL.pdf)

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[24] <https://www.rbi.com/English/sustainability/packaging-and-recycling/default.aspx>

[25] *Id.*

[26] *Id.*

[27] Wu Y, Romanak K, Bruton T, Blum A and M Venier. 2020. Per- and polyfluoroalkyl substances in paired dust and carpets from childcare centers. *Chemosphere* 251: [doi.org/10.1016/j.chemosphere.2020.126771](https://doi.org/10.1016/j.chemosphere.2020.126771)

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