

Updated March 21, 2023

## **Related Laws to TPCCH Model Legislation Update of 2021**

19 states have enacted laws based on the original Toxics in Packaging model, which prohibits intentional use of the four heavy metals. The 2021 update of the model legislation developed by TPCCH is a tool any state may use to regulate contaminants in packaging. A state would need to adopt all or part of the updated model for it to be an enforceable law in their state. No state has amended its current toxics in packaging law to add the updated model legislation language in its entirety. Some states have adopted certain provisions of the 2021 model legislation. Listed below is detailed information about recent related legislative activity in U.S. states *as of March 21, 2023*.

### **TPCH Member States**

**California** enacted a separate law, AB1200, in 2021, which also restricts PFAS compounds in plant based packaging.

<https://openstates.org/ca/bills/20212022/AB1200/>.

**Connecticut** amended their toxics in packaging law in 2021 by prohibiting perfluoroalkyl and polyfluoroalkyl substances (PFAS) in food packaging. The new law will become effective on December 31, 2023. Here is a link to the information from SGS: <https://www.sgs.com/en/news/2021/07/safeguards-09421-state-of-connecticut-usa-bans-pfas-in-food-packaging>.

**Rhode Island** amended their toxics in packaging law in 2022. House bill H7438Sub A/Senate bill S2044 Sub A was signed by the RI Governor on 6/29/22 prohibiting the sale or promotional distribution of any food package which contains PFAS\*, effective January 1, 2024.

<http://webserver.rilin.state.ri.us/PublicLaws/law22/law22294.htm>

\*Note that the RI law includes the following clause: “The use of a regulated chemical as a processing agent, mold release agent or intermediate is considered intentional introduction for the purposes of this chapter where the regulated chemical is detected in the final package or packaging component.”

Updated March 21, 2023

**Maryland** In 2022, the Maryland Legislature enacted House Bill 275, adding a number of requirements regarding PFAS-containing materials, including fire-fighting foam and personal protective equipment, rugs and carpets, and food packaging materials. The law added requirements to existing statutes that addressed the content of heavy metals in food packaging materials, and prohibits the manufacturing, sale, or distribution of PFAS that were knowingly added to materials designed and intended for direct food content as of January 1, 2024. <https://mgaleg.maryland.gov/2022RS/bills/hb/hb0275E.pdf>

**Minnesota** In 2021 the Minnesota Legislature enacted a law phasing out the use of PFAS family chemicals in food packaging, effective 1/1/24. Packaging subject to the phaseout is defined as:

(b) "Food package" means a container applied to or providing a means to market, protect, handle, deliver, serve, contain, or store a food or beverage. Food package includes:

- (1) a unit package, an intermediate package, and a shipping container;
- (2) unsealed receptacles, such as carrying cases, crates, cups, plates, bowls, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs; and
- (3) an individual assembled part of a food package, such as any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels.

The law is separate from the state's Toxics in Packaging law (115A.965) and can be found in Section 325F.075

**New York** In December 2020, New York amended their Hazardous Packaging Act ([Environmental Conservation Law Article 37, Title 2](#)) to restrict the sale, offering for sale, or distribution of food packaging with intentionally added per- and polyfluoroalkyl substances (PFAS). The amendments become effective December 31, 2022. More details on the implementation of the law are available on [NYSDEC's website](#).

Updated March 21, 2023

**Washington** In 2018, Washington State amended their existing Toxics in Packaging Law (<https://app.leg.wa.gov/rcw/default.aspx?cite=70A.222>) to include a ban on PFAS in food packaging. The amendment required the completion of an alternatives assessment ([https://www.ezview.wa.gov/site/alias\\_1962/37610/pfas\\_in\\_food\\_packaging\\_alternatives\\_assessment.aspx](https://www.ezview.wa.gov/site/alias_1962/37610/pfas_in_food_packaging_alternatives_assessment.aspx)) to identify and evaluate feasible and safer products. A two-part phaseout of certain plant-based food packaging begins in February of 2023.

Compliance Deadline #1 – February 1, 2023

Intentionally added PFAS in any amount is prohibited in these types of plant-fiber based food service items as defined in <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.222.010>:

- Wraps and liners
- plates
- food boats
- pizza boxes

All manufacturers, distributors and retailers of food packaging are required to comply. Certificates of Compliance (COC) are required only for manufacturers <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.222.040>. The sample COC will be available soon.

Compliance Deadline #2 – May 1, 2024

Intentionally added PFAS in any amount is prohibited in these types of plant-fiber based food service items as defined in <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.222.010>:

- Bags and sleeves
- Bowls
- Flat serviceware, which includes items like plates and trays
- Open-top containers, which includes items like French fry cartons and food cups

Updated March 21, 2023

- Closed containers, which includes items like clamshells

All manufacturers, distributors and retailers of food packaging are required to comply. Certificates of Compliance are required only for manufacturers <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.222.040>. The sample COC will be available soon.

### **Non-Member States with Toxics in Packaging Laws and New PFAS in Packaging Laws:**

**Maine:** 129<sup>th</sup> Legislature (2019-2020) Public Law Chapter 277; HP1043-LD1433 An Act To Protect the Environment and Public Health by Further Reducing Toxic Chemicals in Packaging; amends the state's [Toxics in Packaging law in 32 MRSA 1731-1737](#).

**Vermont:** 2021 [Act No. 36 \(S.20\)](#) An act relating to restrictions on perfluoroalkyl and polyfluoroalkyl substances and other chemicals of concern in consumer products. Creates a new section in health statutes prohibiting PFAS, bisphenols, and ortho-phthalates in food packaging and components.

### **Non-member states without Toxics in Packaging Laws with new PFAS in Packaging Laws:**

**Colorado:** [HOUSE BILL 22-1345](#), PERFLUOROALKYL AND POLYFLUOROALKYL CHEMICALS CONSUMER PROTECTION ACT" includes PFAS in food packaging prohibitions.

**Hawaii:** [HOUSE BILL 1644](#), includes PFAS in food packaging prohibitions.