## New Year, New PFAS Ban In New York

Article By:

John Gardella

We <u>previously reported</u> in May 2022 on a bill passed in New York that would ban the sale of any apparel in the state of New York that contain intentionally added PFAS starting on December 31, 2023. When the bill went to the Governor's desk for signature, the apparel industry wrote to the Governor opposing the bill as worded and urged the Governor to consider having the bill reworded before signing it into law.

On December 30, 2022, Governor Hochul signed the revised bill into law. Companies involved in the fashion industry must take steps now to prepare not only for the New York bills impact on sales, manufacturing processes, and supply sourcing, but also also for the possibility of additional states taking similar steps as New York given that two of the nation's largest state economies – New York and California – have passed similar PFAS-in-clothing bans.

## New York Fashion PFAS Legislation

<u>S.6291</u> is a relatively simplistic bill that will prohibit the sale of any apparel in the state of New York with intentionally added PFAS. The revised bill defines apparel as "...clothing items intended for regular wear or formal occasions including, but not limited to, undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, vests, dancewear, suits, saris, scarves, tops, leggings, leisurewear, formal wear, onesies, bibs, and diapers. 'Apparel' shall not include professional uniforms or outerwear." The ban on PFAS in apparel would go into effect on December 31, 2023.

## Impact of New York Fashion PFAS Law On Businesses

New York's new PFAS ban places a consumer product used by every single citizen of the state in the crosshairs with respect to PFAS and will require the apparel industry to pivot in the next twelve months to source materials that do not contain any of the over 12,000 types of PFAS that exist, alter manufacturing processes to ensure compliance, and make potentially financially significant decisions with respect to current stocks of apparel and any apparel manufacturing during companies' switch to "PFAS free" apparel.

It is of the utmost importance for businesses along the whole apparel supply chain to evaluate their PFAS risk. Public health and environmental groups urge legislators to regulate these compounds. One major point of contention among members of various industries is whether to regulate PFAS as

a class or as individual compounds. While each PFAS compound has a unique chemical makeup and impacts the environment and the human body in different ways, some groups argue PFAS should be regulated together as a class because they interact with each other in the body, thereby resulting in a collective impact. Other groups argue that the individual compounds are too diverse and that regulating them as a class would be over restrictive for some chemicals and not restrictive enough for others.

Companies should remain informed so they do not get caught off guard. States are increasingly passing PFAS product bills that differ in scope. For any manufacturers, especially those who sell goods interstate, it is important to understand how those various standards will impact them, whether PFAS is regulated as individual compounds or as a class. Conducting regular self-audits for possible exposure to PFAS risk and potential regulatory violations can result in long term savings for companies and should be commonplace in their own risk assessment.

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National Law Review, Volume XIII, Number 10

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