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(2023-2024)

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Assembly Bill No. 2515**CHAPTER 1008**

An act to add Article 15 (commencing with Section 25258) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to public health.

[Approved by Governor September 30, 2024. Filed with Secretary of State September 30, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2515, Papan. Menstrual products: perfluoroalkyl and polyfluoroalkyl substances (PFAS).

The Hazardous Waste Control Law regulates the use and disposal of hazardous materials. Existing law permits the Department of Toxic Substances Control or any local officer or agency authorized to enforce the Hazardous Waste Control Law to require specified parties to furnish and transmit certain information relating to hazardous substances, hazardous wastes, and hazardous materials. A violation of the Hazardous Waste Control Law is a crime.

Existing law, beginning January 1, 2025, prohibits a person or entity from manufacturing, selling, delivering, holding, or offering for sale in commerce any cosmetic product that contains intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS), as defined.

This bill would similarly prohibit any person from manufacturing, distributing, selling, or offering for sale in the state any menstrual products that contain regulated PFAS, as defined. The bill would require the Department of Toxic Substances Control to adopt regulations on or before January 1, 2029, as specified, for the purposes of implementing, interpreting, enforcing, or making specific these provisions. The bill would require the department to publish on its internet website, on or before January 1, 2027, a list of accepted testing methods for testing for regulated PFAS in menstrual products. The bill would require a manufacturer of menstrual products to register with the department, on or before July 1, 2029, and to provide to the department specified information and a registration fee. The bill would require the department to issue a notice of violation of the above provisions under specified circumstances, including that the department determines that a violation of the regulations described above has occurred or the department receives a report of an alleged violation and verifies that the violation alleged in the report occurred through its own independent testing, verification, or inspection. The bill would make a violation of these provisions punishable by administrative or civil penalties, as specified, and would authorize the Attorney General, on behalf of the department or on behalf of the people of the state at the request of the department, to bring an action to enforce these provisions. The bill would create, and would require all moneys collected from penalties to be deposited in, the T.A.M.P.O.N. Act Fund. The bill would make the department's duties to initiate, implement, or enforce any of these requirements contingent upon sufficient

funds in the Toxic Substances Control Account, as determined by the Department of Finance, and an appropriation by the Legislature for the purposes of implementing and enforcing the requirements.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be cited, as the Take All Menstrual Product-PFAS Out Now (T.A.M.P.O.N.) Act.

SEC. 2. Article 15 (commencing with Section 25258) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 15. Menstrual Products

25258. For the purposes of this article, the following definitions apply:

(a) "Department" means the Department of Toxic Substances Control.

(b) "Menstrual product" means a product used to collect menstruation and vaginal discharge, including, but not limited to, tampons, pads, sponges, menstruation underwear, disks, and menstrual cups, whether disposable or reusable.

(c) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(d) "Regulated perfluoroalkyl and polyfluoroalkyl substances" or "regulated PFAS" means the following:

(1) Commencing January 1, 2025, PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product, including the PFAS components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product.

(2) Commencing January 1, 2027, the presence of PFAS in a product or product component at or above a limit determined by the department, as measured in total organic fluorine.

25258.1. On or before January 1, 2029, the department shall adopt regulations to implement, interpret, enforce, or make specific this article.

25258.2. On or before January 1, 2027, the department shall publish on its internet website a list of accepted testing methods for testing for the presence of regulated PFAS in menstrual products and appropriate third-party accreditations for laboratories. The department may update the list of accepted testing methods as necessary.

25258.3. A person shall not manufacture, distribute, sell, or offer for sale in the state a menstrual product that contains regulated PFAS.

25258.4. (a) On or before July 1, 2029, a manufacturer of a menstrual product, as defined in this article, shall register with the department and provide to the department all of the following in the manner prescribed by the department pursuant to the regulations adopted pursuant to this article:

(1) The name and a description of each menstrual product.

(2) The applicable registration fee.

(3) (A) A statement of compliance certifying that each menstrual product is in compliance with this article.

(B) The department may request, and a manufacturer shall provide upon request, technical documentation, including analytical test results, to demonstrate compliance with this article. The certification and analytical

tests shall comply with those published on the department's internet website pursuant to Section 25258.2.

(b) The department shall specify in regulation the manner for registering and the registration fee. The registration fee shall not exceed the department's reasonable costs of implementing this article.

25258.5. (a) The department shall issue a notice of violation to a person or entity in violation of this article if any of the following occurs:

(1) The department's testing or test results submitted as a part of the registration process pursuant to Section 25258.4 indicates that a menstrual product contains regulated PFAS.

(2) The department determines that a menstrual product contains regulated PFAS after finding PFAS as an ingredient identified on the product's label.

(3) The department finds a violation of this article or any rule, regulation, standard, or requirement issued or adopted pursuant to this article.

(b) A notice of violation shall indicate the nature of the violation and may do any of the following:

(1) Assess an administrative or civil penalty against a person or entity in violation of this article.

(2) Require compliance with this article, including requiring the person or entity to cease the manufacture, sale, or distribution of a menstrual product in this state.

(c) The department may receive reports of alleged violations, including analytical test results, from consumers, businesses, research institutions, persons, entities, and not-for-profit entities, and shall verify those alleged reports through its own independent testing, verification, or inspection.

25258.6. (a) A violation of this article is punishable by a civil and administrative penalty.

(b) The department shall determine, on a case-by-case basis, the enforcement mechanism and the amount of any administrative or civil penalty assessed pursuant to this article. The minimum amount of an administrative or civil penalty assessed shall be ten thousand dollars (\$10,000) for the first and any subsequent violation. Penalties may be assessed for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

(c) In assessing the amount of a civil penalty for a violation of this article, the court may consider all of the following:

(1) The nature and extent of the violation.

(2) The number and severity of the violations.

(3) The economic effect of the penalty on the violator.

(4) Whether the violator took good faith measures to comply with this article and when the measures were taken.

(5) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole.

(6) Whether there were contributing environmental factors about which a reasonable person knew or should have known.

(d) The Attorney General, on behalf of the department, may bring an action in superior court and the court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person or entity from violating any provision of this article. A proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the department shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or to show or tending to show irreparable damage or loss.

(e) Actions may be brought pursuant to this section by the Attorney General in the name of the people of the state at the request of the department.

(f) A prevailing plaintiff bringing an action pursuant to this article shall be awarded attorney's fees and costs by the court.

(g) (1) Moneys from penalties collected pursuant to this section shall be deposited in the T.A.M.P.O.N. Act Fund, which is hereby created in the State Treasury.

(2) The department's duties to initiate, implement, or enforce any requirement of this article are contingent upon sufficient funds in the Toxic Substances Control Account, as determined by the Department of Finance, and an appropriation by the Legislature for the purposes of implementing and enforcing the requirements of this article.

(3) Upon appropriation by the Legislature and subject to the determination in paragraph (2), if funds in the Toxic Substances Control Account are sufficient to finance the development of the regulations and the startup costs of the department's activities pursuant to this article, funds may be used as a loan by the department for the department to carry out this article until the T.A.M.P.O.N. Act Fund generates revenues sufficient to fund the department's reasonable costs of implementing this article and to reimburse any outstanding loans made from the Toxic Substances Control Account used to finance the development of the regulations and the startup costs of the department's activities pursuant to this article.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.