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 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 686 (Senator Love)
 Education, Energy, and the Environment

PFAS Chemicals – Product Phase Outs and Registration Requirements

This bill expands product bans for specified consumer products that contain intentionally added PFAS chemicals; the bans are phased in by product type, with the first bans taking effect January 1, 2028. The bill also requires manufacturers to register their products that contain intentionally added PFAS chemicals with the Maryland Department of the Environment (MDE) by January 1, 2028 (and pay a related registration fee). The bill establishes related compliance, enforcement, and penalty provisions. Penalties from new and specified existing penalty provisions, as well as manufacturer registration fees, are paid into a newly established Maryland PFAS Chemicals Protection and Remediation Fund (PFAS Fund). The PFAS Fund is used to assess, prevent, and remediate PFAS chemical contamination by, among other things, providing grants and loans to public and private entities for related projects.

Fiscal Summary

State Effect: General/special fund expenditures for MDE increase by \$201,400 in FY 2027; future years are annualized and reflect additional staff, ongoing costs, inflation, and grant and loan awards. Special fund revenues to the new fund increase beginning as early as FY 2027. General fund revenues are also affected as early as FY 2027, as discussed below. State expenditures (all/multiple funds) may increase as early as FY 2027, as discussed below. Other potential effects are discussed below.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
GF Revenue	(-)	-/(-)	(-)	(-)	(-)
SF Revenue	-	-	-	-	-
GF/SF Exp.	\$201,400	\$677,800	\$736,700	\$758,900	\$781,200
All/Mult. Exp.	-	-	-	-	-
Net Effect	(-)	(-)	(-)	(-)	(-)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local governments, as consumers of affected products, may incur an increase in expenditures as early as FY 2027. Local grant and loan revenues (and corresponding expenditures) may increase, likely not before FY 2028.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Product Bans and Regulations

By January 1, 2027, MDE must adopt regulations to identify “currently unavoidable uses” of PFAS chemicals that are essential for health, safety, or the functioning of society and for which there are no reasonably available alternatives. MDE must consult with the Maryland Department of Health (MDH) and other units of State government as necessary in developing the regulations.

Beginning January 1, 2028, except as specified, a manufacturer may not sell, offer for sale, distribute, or distribute for sale in the State (directly or indirectly through intermediaries) the following products if the product contains intentionally added PFAS chemicals: (1) a cleaning product; (2) cookware; (3) a cosmetic; (4) a personal care product; (5) a feminine hygiene product; (6) a pet food package or packaging component intended for direct contact with pet food; (7) a juvenile product; or (8) an intimacy product.

Beginning January 1, 2029, except as specified, a manufacturer may not sell, offer for sale, distribute, or distribute for sale in the State (directly or indirectly through intermediaries) the following products if the product contains intentionally added PFAS chemicals: (1) a fabric treatment; (2) ski wax; (3) a textile or textile furnishing; (4) upholstered furniture; or (5) paint.

These product bans do not apply to (1) a product for which federal law governs and preempts State authority over the presence of PFAS chemicals in the product; (2) a used product offered for sale or resale, including any recycled material used in remanufacturing; or (3) a product for which MDE has determined by regulation that the use of PFAS chemicals is a currently unavoidable use, as defined by the bill.

Manufacturer Registration, PFAS Chemicals Disclosure Form, and Registration Fee

By January 1, 2028, each manufacturer of a product that contains intentionally added PFAS chemicals (regardless of whether MDE has determined the use of PFAS chemicals is a

currently unavoidable use) that is sold, offered for sale, distributed, or distributed for sale in the State (either directly or indirectly through intermediaries) must register the product with MDE. An affected manufacturer must do so by submitting a PFAS chemicals disclosure form to MDE and paying to MDE a PFAS chemicals registration fee set by MDE by regulation (discussed in more detail below). A manufacturer must submit a revision to a PFAS chemicals disclosure form within 30 days of a significant change to any previously supplied information or after receiving written request for additional information from MDE. On written approval from MDE, a manufacturer may provide the required information for a category, type of product, or product component.

Within 60 days after receiving a PFAS chemicals disclosure form, MDE must provide written notice to the manufacturer that either confirms that the information is complete or requests additional information. MDE may waive some or all of the information required on a PFAS disclosure form under certain circumstances. In addition, MDE may extend the registration deadline for a manufacturer if MDE determines that circumstances merit an extension.

MDE may enter into an agreement with other states or political subdivisions to collect information on PFAS chemical use and may accept information to a shared system as meeting the information requirements established by the bill for PFAS chemicals disclosure forms, as specified.

MDE must establish a PFAS chemicals registration fee by regulation. The fee must be set at a level adequate to cover MDE's costs to process, store, and enforce the bill's registration and PFAS chemicals disclosure form requirements. Registration fees are deposited into the new PFAS Fund (discussed in more detail below).

Beginning January 1, 2029, a manufacturer is prohibited from selling, offering for sale, distributing, or distributing for sale (directly or indirectly through intermediaries) a product that contains intentionally added PFAS chemicals unless the manufacturer is in compliance with the bill's registration, PFAS chemicals disclosure form, and registration fee requirements.

Enforcement

The bill establishes provisions to ensure compliance with the bill's new and expanded requirements and bans for products with intentionally added PFAS chemicals under Title 6, Subtitle 16 of the Environment Article. If MDE has reason to believe that a product is being sold, offered for sale, distributed, or distributed for sale in the State in violation of the subtitle, MDE must require the manufacturer to test the product and may require the manufacturer to provide the testing results to MDE, as specified. Additionally, at least once per year, MDE must randomly select products in each category of products for which

intentionally added PFAS chemicals are prohibited and require each manufacturer of a randomly selected product to test the product, as specified. If testing demonstrates that the product does not contain intentionally added PFAS chemicals, the manufacturer must provide MDE with a specified certificate of compliance, the testing results, and any other information requested by MDE. If testing demonstrates that the product contains intentionally added PFAS chemicals, the manufacturer must (1) within 30 days, register the product as required by the bill and (2) if the sale of the product is prohibited in the State, provide notice to persons that sell, offer for sale, distribute, or distribute for sale the product in the State that is prohibited (and provide MDE with a list of each such person, as specified) and buy back any remaining stock from such a person.

The bill specifies that existing penalties that apply to violations of existing prohibitions against the use or sale of class B fire-fighting foam and the sale of rugs or carpets to which PFAS chemicals have been intentionally added are *administrative* penalties, rather than *civil* penalties. The penalty amounts are unchanged.

The bill also establishes new penalties for manufacturers who violate a provision of Subtitle 16, as altered by the bill. More specifically, a manufacturer who violates a provision of the subtitle is subject to an administrative penalty of up to \$15,000. Additionally, MDE may issue an administrative order requiring a manufacturer to comply with the subtitle. In addition to the penalties discussed above, a manufacturer who violates an administrative order is subject to a civil penalty of up to \$25,000, with each day of noncompliance considered a separate violation. Penalties imposed under these provisions are in addition to any damages, remediation or cleanup costs, environmental restoration costs, or other monetary or nonmonetary remedies that may be imposed by statute, regulation, or court order.

The bill directs penalties collected under Title 6, Subtitle 16 of the Environment Article, as altered by the bill, into the new PFAS Fund. The bill also redirects penalties collected under existing provisions governing chemicals used in playground surfacing materials and toxics in packaging to the PFAS Fund. (Under current law, these penalties are deposited into the general fund.)

Maryland PFAS Chemicals Protection and Remediation Fund

Purpose and Administration of Fund: The bill establishes the PFAS Fund, the stated purpose of which is to fund efforts to assess, prevent, and remediate contamination from PFAS chemicals across the State's watersheds, communities, and ecosystems. MDE must administer the fund in consultation with MDH, the Maryland Department of Agriculture (MDA), the Department of Natural Resources (DNR), the Chesapeake Bay Trust (CBT), and local health departments (LHDs).

Revenue Sources for Fund: The fund consists of (1) PFAS chemicals registration fees collected under the bill; (2) specified penalties; (3) cost recovery by the State from PFAS chemicals polluters under State or federal environmental laws; (4) money obtained by the State through any civil settlement or consent decree related to PFAS chemicals pollution; (5) money accepted for the benefit of the fund through private donations, cost-share agreements, and other specified sources; (6) money appropriated in the State budget to the fund; (7) interest earnings; and (8) any other money from any other source accepted for the benefit of the fund.

Uses of Fund: The fund may only be used for (1) assessing and monitoring PFAS chemicals pollution, as specified; (2) implementing community assistance and remediation initiatives, as specified; (3) supporting research and innovation related to PFAS chemicals pollution, as specified; (4) providing grants and loans, as discussed below; (5) offsetting MDE's administrative costs to design and implement programs related to PFAS chemicals, including the development of regulations; and (6) supporting related enforcement actions brought by the State, as specified. Expenditures from the fund may be made only in accordance with the State budget.

By January 15 each year, MDE must report to specified committees of the General Assembly on the status of the fund, as specified.

Grants and Loans Awarded from the Fund: MDE must provide grants and loans from the PFAS Fund to public and private entities for projects related to the purposes of the fund. Grants and loans must be awarded on a competitive basis. In awarding grants and loans, MDE must (1) prioritize projects that leverage other sources of funding, as specified; (2) reserve at least 35% of the total funding allocated for grants and loans for projects that address community and public health threats related to PFAS chemicals contamination; and (3) to the extent feasible, coordinate with other State grant- and loan-making programs, as specified.

MDE must develop and publish criteria for project applications in consultation with MDH, MDA, DNR, CBT, and LHDs. In addition, MDE must maintain a public website listing detailed information regarding each grant and loan award made under these provisions and the outcomes of each project funded.

Definitions

The bill establishes numerous definitions for terms used in the bill, including "manufacturer," which means (1) the person that produced or assembled a product or whose brand name is affixed to the product or (2) if the person that produced or assembled the product or whose brand name is affixed to the product does not have an office or employees in the United States, the importer or first domestic distributor of the product.

The bill also makes a conforming change to the existing definition of “PFAS chemicals” that is used throughout Title 6, Subtitle 16 of the Environment Article in order to incorporate the bill’s changes.

Current Law:

State Restrictions on PFAS in Products and Applicable Enforcement Provisions

PFAS Chemicals in Fire-fighting Foam, Carpets, and Rugs: Title 6, Subtitle 16 of the Environment Article governs PFAS chemicals and addresses the use, manufacture, sale, distribution, and disposal of Class B fire-fighting foam that contains intentionally added PFAS chemicals in the State as well as the manufacture, sale, and distribution for sale or use in the State a rug or carpet to which PFAS chemicals have been intentionally added. Manufacturers of rugs or carpets for sale or use in the State must establish a certificate of compliance to attest that the rug or carpet is in compliance and must provide the certificate to the MDE on request.

A person who violates these provisions is subject to a civil penalty of up to \$500 for a first violation and up to \$1,000 for a second or subsequent violation. Penalty revenue is deposited into the general fund.

Playground Surfacing Materials: Title 6, Subtitle 16A of the Environment Article governs playground surfacing materials and, among other things, prohibits a person from installing, supplying, selling, soliciting, or offering for sale in the State playground surfacing materials that contain a component product, material, or substance to which PFAS chemicals were previously intentionally added in the formation of that component where the continued presence of the PFAS chemicals was desired in the component to provide a specific characteristic.

The provisions of §§ 9-334 through 9-341 and §§ 9-343 through 9-344 of the Environment Article apply to enforce violations of Title 6, Subtitle 16A. In addition, a person who violates the subtitle is subject to a civil penalty of up to \$2,500 for each violation or an administrative penalty of up to \$2,500 for each violation, not exceeding \$100,000 total.

The provisions of §§ 9-334 through 9-341 of the Environment Article, which are established under provisions relating to Title 9, Subtitle 3 of the Environment Article (Water Pollution Control), establish enforcement procedures that govern (1) the ability of MDE to issue complaints, conduct hearings, issue corrective orders, and obtain injunctive relief and (2) judicial review of final decisions.

Under § 9-343 of the Environment Article, a person who violates any provision of or fails to perform any duty imposed by Title 9, Subtitle 3 of the Environment Article, or who

violates any provision or fails to perform any duty imposed by a rule, regulation, order, or permit adopted or issued under that subtitle, is guilty of a misdemeanor and on conviction is subject to a maximum fine of \$25,000 and/or imprisonment for up to one year for a first offense and a maximum fine of \$50,000 and/or imprisonment for up to two years for a subsequent offense. The person may also be enjoined from continuing the violation. Each day on which a violation occurs is a separate violation.

In addition, a person is guilty of misdemeanor and on conviction is subject to a maximum fine of \$50,000 and/or imprisonment for up to two years if the person (1) knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the subtitle or (2) falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under the subtitle or any rule, regulation, order, or permit adopted or issued under the subtitle.

Pursuant to § 9-344 of the Environment Article, the Attorney General is in charge of prosecuting and defending cases that arise on behalf of the State.

Penalty revenue collected under Subtitle 16A is deposited into the general fund.

Toxics in Packaging: Title 9, Subtitle 19 of the Environment Article governs toxics in packaging and, among other things, establishes that a manufacturer or distributor may not manufacture or knowingly sell, offer for sale, or distribute for sale or use in the State a food package or food packaging component designed and intended for direct food contact to which PFAS chemicals were intentionally added.

A person who violates Title 9, Subtitle 19 or any regulation adopted in accordance with the subtitle is subject to civil and criminal penalty provisions. Specifically, a violator is subject to a civil penalty of up to \$1,000 for each violation, not exceeding a total of \$10,000 for any action. Each package or packaging component in violation constitutes a separate offense. Further, any person who has previously been assessed a related civil penalty and who willfully violates any of these provisions is guilty of a misdemeanor, and upon conviction, is subject to a fine of up to \$20,000. Penalty revenue is deposited into the general fund.

PFAS in Cosmetics: Under the Health-General Article, a person may not knowingly manufacture, sell, deliver, hold, or offer for sale in the State a cosmetic product that contains specified PFAS chemicals (and their salts) if intentionally added.

Federal Regulation and Restrictions on PFAS Use

As part of its comprehensive national strategy to combat PFAS pollution, called the “Strategic Roadmap,” the U.S. Environmental Protection Agency (EPA) has taken steps to restrict, remediate, and research PFAS contamination and impacts. To that end, EPA has taken several actions under numerous federal laws designed to protect human health and the environment, including under the federal Toxic Substances Control Act, which regulates the introduction of new or already existing chemicals; the Safe Drinking Water Act; and the Comprehensive Environmental Response, Compensation, and Liability Act (more commonly known as Superfund).

Additionally, in 2024, the U.S. Food and Drug Administration announced that, as a result of voluntary market phase-out commitments, substances containing PFAS were no longer being sold into the U.S. market for use as grease-proofing agents on paper food packaging.

State Fiscal Effect:

Maryland Department of the Environment

Administrative Costs and Expenditures on Grant and Loan Awards: General/special fund expenditures for MDE increase by \$201,383 in fiscal 2027, and by 677,809 in fiscal 2028, which accounts for the bill’s October 1, 2026 effective date. This estimate reflects the cost of hiring three employees starting October 1, 2026 (one administrative specialist, one environmental compliance specialist, and one chemist), and three additional employees starting October 1, 2027 (one administrative specialist and two environmental compliance specialists), to (1) develop the required regulations; (2) conduct industry research to set registration fees at an adequate level to cover specified costs and identify currently unavoidable uses of PFAS chemicals; (3) develop the grant and loan program in consultation with MDH, MDA, DNR, CBT, and LHDs and administer both the fund and the new grant and loan program; (4) fulfill reporting requirements; (5) collect, maintain, and review manufacturer registrations and product information; and (6) conduct compliance activities. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses; beginning in fiscal 2028, it also includes expenditures to make grant and loan awards. The information and assumptions used in calculating the estimate are stated below:

- the bill establishes significant, ongoing requirements for MDE;
- it is assumed that manufacturer registration fee revenues partially offset MDE’s administrative costs, as discussed below, but that general funds are also needed;
- although the bill’s provisions related to grants and loans take effect October 1, 2026, MDE needs one year to coordinate with other State grant- and loan-making

programs and develop the grant and loan program before grants and loans can be awarded; and

- for the grant and loan program to be viable, \$250,000 in awards must be made each year beginning in fiscal 2028.

	<u>FY 2027</u>	<u>FY 2028</u>
Positions (New)	3.0	3.0
Salaries and Fringe Benefits (Total)	\$173,961	\$391,910
Grant and Loan Awards	0	\$250,000
Other Operating Expenses	<u>27,422</u>	<u>35,899</u>
Total MDE Expenditures	\$201,383	\$677,809

Future year expenditures reflect (1) full salaries with annual increases and employee turnover; (2) annual increases in ongoing operating expenses; and (3) ongoing grant and loan awards of \$250,000 annually.

The bill requires MDE to set the manufacturer registration fee at a level adequate to cover its costs to process, store, and enforce the requirements of the bill’s provisions relating to the registration and PFAS chemicals disclosure form requirements. However, only a portion of MDE’s costs (as estimated above) relate to those provisions. Accordingly, this analysis assumes that a combination of general funds and special funds are needed to cover MDE’s costs. To the extent that special fund revenues to the PFAS Fund (discussed below) are sufficient to cover MDE’s costs, the need for general funds decreases.

Special Fund Revenues: Special fund revenues for the PFAS Fund increase beginning as early as fiscal 2027 from (1) penalties (initially, primarily due to the redirection of existing penalties from the general fund to the new special fund and later, also from any penalties assessed for violations of the bill); (2) manufacturer registration fees; (3) interest earnings of the new fund (beginning in fiscal 2029, as discussed below); (4) any loan repayments (in future years, to the extent loans are made from the fund); and (5) any other money dedicated to the fund (as described above under Bill Summary). However, it is likely that special fund revenues are not significant until fiscal 2028, when affected manufacturers must generally be registered in order to continue selling products with intentionally added PFAS chemicals.

Overall, a reliable estimate of the increase in special fund revenues to the new fund cannot be made at this time. First, it is unclear whether the registration fee that MDE must establish by regulation is a one-time fee or an ongoing fee. (The bill does not specify that the registration requirements – and payment of the registration fee – are annual, recurring requirements.) Second, registration fee revenues will also depend on the number of affected manufacturers and products and the fee structure established by MDE by regulation, which

are unknown. Finally, any penalty revenues directed to the new fund cannot be reliably predicted in advance.

General Fund Revenues: General fund revenues *decrease* beginning in fiscal 2027 due to the redirection of existing penalty revenues from the general fund to the PFAS Fund. A reliable estimate of any such decrease cannot be made at this time, as complete information regarding recent penalties imposed under the affected provisions is not readily available.

In addition, although the bill indicates that interest earnings of the PFAS Fund remain in the fund, the bill does not amend Section 8 of Chapter 717 of 2024 (the Budget Reconciliation and Financing Act of 2024), which requires, notwithstanding any other provision of law, that interest earnings from special funds (with certain exceptions) accrue to the general fund from fiscal 2024 through 2028. Thus, general fund revenues may *increase* from interest earnings of the new special fund in fiscal 2027 and 2028. However, any increase in general fund revenues from interest earnings is only that interest attributable to manufacturer registration fees since in the absence of the bill, penalty revenue would otherwise accrue to the general fund. Further, interest earnings from manufacturer registration fees is likely minimal in fiscal 2027. Thus, the primary increase in general fund revenues from interest earnings of the new special fund is in fiscal 2028. The fund is exempted from a similar requirement under § 6-226(a)(2) of the State Finance and Procurement Article that applies from fiscal 2029 forward.

The net effect on general fund revenues in fiscal 2028 is unknown.

Additional Impacts

State Agencies as Consumers: State expenditures (all/multiple fund types), may increase as early as fiscal 2027 to the extent that product costs increase due to the bill's requirements and product bans. The overall magnitude of any such increase depends on compliance costs for manufacturers (which are assumed to be passed on to consumers), the availability of compliant alternatives, and the use of currently noncompliant products by various State agencies.

State Entities as Eligible Grant and Loan Recipients: To the extent that a unit of State government receives a grant or loan from the PFAS Fund, grant and/or loan revenues and expenditures for any such entity increase correspondingly, likely not before fiscal 2028.

State Entities Required to Consult with the Maryland Department of the Environment: It is assumed that MDH, MDA, and DNR can consult with MDE as needed using existing resources. (It is also assumed that CBT, a nonprofit grant-making organization established in statute, can consult with MDE as needed using existing resources.)

Judiciary: The bill's changes are not anticipated to materially affect the finances or operations of the Judiciary.

Local Fiscal Effect: Local government expenditures may increase as early as fiscal 2027 to the extent that product costs increase as a result of the bill's requirements and product bans. The overall impact depends on compliance costs for manufacturers (which are assumed to be passed on to consumers), the availability of compliant alternatives, and the use of currently noncompliant products by local governments.

To the extent that a unit of local government receives a grant or loan under the bill, local grant and/or loan revenues and expenditures for any such entity increase correspondingly, likely not before fiscal 2028.

It is assumed that LHDs can consult with MDE as necessary to develop and publish criteria for project applications for grants and loans awarded under the bill using existing resources.

Small Business Effect: The bill likely has a meaningful impact on a range of small businesses throughout the State that manufacture, import, distribute, use, or sell products with intentionally added PFAS that are affected by the bill's product bans, registration, and/or compliance requirements. Compliance under the bill includes a wide range of potential actions, including registering products, paying the registration fee, altering product components, conducting testing, obtaining certificates of compliance, providing product information, providing required notice, and buying back noncompliant products. The extent to which any affected manufacturers are Maryland small businesses, however, is unknown. Any increased manufacturing or compliance costs are likely passed on to retailers and consumers in the form of higher prices.

Small businesses that manufacture, import, distribute, or sell comparable alternative products that do not contain intentionally added PFAS, as well as testing labs, environmental consulting firms, and compliance service providers, may see a meaningful increase in the demand for their products and services.

Small businesses that are eligible for and receive grants or loans under the bill benefit from such funding, likely not before fiscal 2028.

Additional Comments: Nationwide, states are increasingly taking action to legislate responses to PFAS by introducing product bans and taking efforts to prevent and address PFAS in the environment. According to the National Conference of State Legislatures, in 2025, more than 300 PFAS-related bills were considered across 39 states.

Of note, in 2025, New Mexico passed the Per- and Poly--Fluoroalkyl Substances (PFAS) Protection Act which contains similar provisions to this bill. Additionally, Minnesota

passed legislation in 2023 that requires manufacturers to report intentionally added PFAS in products sold in Minnesota and to pay a fee. Initial reports are due July 1, 2026; Minnesota has established the PFAS Product Reporting and Information System for Manufacturers through which manufacturers are able to submit product reports and pay fees.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1022 (Delegate Ruth, *et al.*) - Health and Environment and Transportation.

Information Source(s): Maryland Association of County Health Officers; Prince George's and Howard counties; City of Annapolis; Judiciary (Administrative Office of the Courts); Baltimore City Community College; University System of Maryland; Morgan State University; Maryland Department of Agriculture; Maryland Department of the Environment; Maryland Department of Health; Department of General Services; Department of Juvenile Services; Department of Natural Resources; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Chesapeake Bay Trust; National Conference of State Legislatures; Minnesota Pollution Control Agency; U.S. Food and Drug Administration; U.S. Environmental Protection Agency; Department of Legislative Services

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