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AB-1200 Plant-based food packaging: cookware: hazardous chemicals. (2021-2022)

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Assembly Bill No. 1200

CHAPTER 503

An act to add Chapter 15 (commencing with Section 109000) to Part 3 of Division 104 of the Health and Safety Code, relating to product safety.

[Approved by Governor October 05, 2021. Filed with Secretary of State October 05, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1200, Ting. Plant-based food packaging: cookware: hazardous chemicals.

Existing law prohibits the manufacture, sale, or distribution in commerce of any toy or child care article, as defined, that contains phthalates exceeding a specified percentage. Existing law prohibits the manufacture, sale, or distribution in commerce of any bottle or cup that contains bisphenol A, above a specified detectable level, if the bottle or cup is designed or intended to be filled with any liquid, food, or beverage intended primarily for consumption from that bottle or cup by children 3 years of age or younger. Existing law, beginning January 1, 2025, prohibits the manufacture, sale, delivery, hold, or offer for sale in commerce of any cosmetic product that contains any of several specified intentionally added ingredients, such as perfluoroalkyl and polyfluoroalkyl substances (PFAS), except under specified circumstances.

This bill would prohibit, beginning January 1, 2023, any person from distributing, selling, or offering for sale in the state any food packaging that contains regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS, as defined. The bill would require a manufacturer to use the least toxic alternative when replacing regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS in food packaging to comply with this requirement. The bill would define "food packaging," in part, to mean a nondurable package, packaging component, or food service ware that is comprised, in substantial part, of paper, paperboard, or other materials originally derived from plant fibers.

This bill would require, beginning January 1, 2024, a manufacturer, as defined, of cookware, as defined, sold in the state that contains one or more intentionally added chemicals, as defined, present on a designated list, as defined, in the handle of the product or in any product surface that comes into contact with food, foodstuffs, or beverages to list the presence of those chemicals on the product label, as defined, and include a statement on the product label and on the product listing for online sales, in both English and Spanish, regarding how a consumer can obtain more information about the chemicals in the cookware, as provided. The bill would exclude cookware that meets specified conditions from the product label requirement, but would still require a manufacturer of exempt cookware to include the required information on the product listing for online sales. The bill would require, beginning January 1, 2023, a manufacturer of this cookware to post on an internet website for the cookware a list of chemicals in the cookware that are present on the designated list, among other information. The bill would prohibit a manufacturer from making a claim, either on the cookware package commencing January 1, 2024, or on the internet website for the cookware commencing January 1, 2023, that the cookware is free of any specific chemical if the chemical belongs to a chemical group or class identified on the designated list, unless no individual chemical from that chemical group or class is

intentionally added to the cookware. The bill would prohibit this cookware from being sold, offered for sale, or distributed in the state unless the cookware and the manufacturer of the cookware comply with these provisions.

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

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

SECTION 1. Chapter 15 (commencing with Section 109000) is added to Part 3 of Division 104 of the Health and Safety Code, to read:

CHAPTER 15. Chemicals of Concern in Food Packaging and Cookware

Article 1. Plant-Based Food Packaging Containing PFAS

109000. (a) For purposes of this article, the following terms have the following definitions:

(1) "Food packaging" means a nondurable package, packaging component, or food service ware that is intended to contain, serve, store, handle, protect, or market food, foodstuffs, or beverages, and is comprised, in substantial part, of paper, paperboard, or other materials originally derived from plant fibers. "Food packaging" includes food or beverage containers, take-out food containers, unit product boxes, liners, wrappers, serving vessels, eating utensils, straws, food boxes, and disposable plates, bowls, or trays.

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

(3) "Regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS" means either of the following:

(A) 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.

(B) The presence of PFAS in a product or product component at or above 100 parts per million, as measured in total organic fluorine.

(b) Commencing on January 1, 2023, no person shall distribute, sell, or offer for sale in the state any food packaging that contains regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS.

(c) A manufacturer shall use the least toxic alternative when replacing regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS in food packaging to comply with this article.

Article 2. Chemical Disclosures for Cookware

109010. For purposes of this article, the following terms have the following definitions:

(a) "Cookware" means durable houseware items that are used in homes and restaurants to prepare, dispense, or store food, foodstuffs, or beverages. "Cookware" includes pots, pans, skillets, grills, baking sheets, baking molds, trays, bowls, and cooking utensils.

(b) "Designated list" means the list of chemicals identified as candidate chemicals that exhibit a hazard trait or an environmental or toxicological endpoint that meets the criteria specified in regulations adopted by the Department of Toxic Substances Control pursuant to Article 14 (commencing with Section 25251) of Chapter 6.5 of Division 20, and is published on the Department of Toxic Substances Control's internet website pursuant to those regulations.

(c) "Intentionally added chemical" means a chemical that a manufacturer has intentionally added to a product and that has a functional or technical effect in the product, including the components of intentionally added chemicals and intentional breakdown products of an added chemical that also have a functional or technical effect in the product.

(d) "Manufacturer" means either of the following:

(1) A person or entity who manufactures the cookware and whose name appears on the product label.

(2) A person or entity who the cookware is manufactured for or distributed by, identified by the product label pursuant to the federal Fair Packaging and Labeling Act (15 U.S.C. Sec. 1451 et seq.).

(e) "Product label" means a display of written, printed, or graphic material that appears on, or is affixed to, the exterior of a product, or its exterior container or wrapper that is visible to a consumer, if the product has an exterior container or wrapper.

109011. (a) Commencing on January 1, 2024, a manufacturer of cookware sold in the state that contains one or more intentionally added chemicals present on the designated list in the handle of the product or in any product surface that comes into contact with food, foodstuffs, or beverages shall list the presence of those chemicals on the product label. The list of intentionally added chemicals shall be introduced by the phrase "This product contains:", and shall include on the product label a statement, in both English and Spanish, that reads: "For more information about chemicals in this product, visit", followed by both of the following:

(1) An internet website address for a web page that provides all of the information required by Section 109012.

(2) A quick response (QR) code or other machine-readable code, consisting of an array of squares, used for storing an internet website for a web page that provides all of the information required by Section 109012.

(b) A manufacturer of cookware sold in the state shall ensure that the statement required on the product label by subdivision (a) is visible and legible to the consumer, including on the product listing for online sales.

(c) (1) Except as provided in paragraph (2), cookware that meets both of the following requirements is exempt from the requirements of this section:

(A) The surface area of the cookware cannot fit a product label of at least two square inches.

(B) The cookware does not have either of the following:

(i) An exterior container or wrapper on which a product label can appear or be affixed.

(ii) A tag or other attachment with information about the product attached to the cookware.

(2) A manufacturer of cookware sold in the state shall ensure that the statement otherwise required on a product label by subdivision (a) is included on the product listing for online sales pursuant to subdivision (b).

109012. Commencing on January 1, 2023, a manufacturer of cookware sold in the state that contains one or more intentionally added chemicals present on the designated list in the handle of the product or in any cookware surface that comes into contact with food, foodstuffs, or beverages shall post on the internet website for the cookware all of the following:

(a) A list of all chemicals in the cookware that are also present on the designated list.

(b) The names of the authoritative list or lists referenced by the Department of Toxic Substances Control in compiling the designated list on which each chemical in the cookware is present.

(c) A link to the internet website for the authoritative list or lists identified pursuant to subdivision (b).

109013. Commencing on January 1, 2023, on the internet website for the cookware, and on January 1, 2024, on the cookware package, a manufacturer shall not make a claim that the cookware is free of any specific chemical if the chemical belongs to a chemical group or class identified on the designated list, unless no individual chemical from that chemical group or class is intentionally added to the cookware.

109014. Cookware that contains one or more intentionally added chemicals present on the designated list in the handle of the product or in any product surface that comes into contact with food, foodstuffs, or beverages shall not be sold, offered for sale, or distributed in the state unless the cookware and the manufacturer of the cookware comply with this article.