

HB 465-FN - AS INTRODUCED

2023 SESSION

23-0506

08/05

HOUSE BILL **465-FN**

AN ACT restricting use of perfluoroalkyl and polyfluoroalkyl substances in certain consumer products.

SPONSORS: Rep. Ebel, Merr. 7; Rep. Rung, Hills. 12; Rep. N. Murphy, Hills. 12; Rep. Grote, Rock. 24; Rep. Malloy, Rock. 24; Rep. Mooney, Hills. 12; Rep. Dunn, Rock. 16; Rep. B. Boyd, Hills. 12; Rep. Merner, Coos 1; Sen. Watters, Dist 4; Sen. Chandley, Dist 11; Sen. Ricciardi, Dist 9; Sen. Perkins Kwoka, Dist 21; Sen. Prentiss, Dist 5

COMMITTEE: Commerce and Consumer Affairs

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ANALYSIS

This bill restricts the use of per and polyfluoroalkyl substances in rugs, carpets, and aftermarket stain and water resistant treatments sold in New Hampshire.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Three*

AN ACT                    restricting use of perfluoroalkyl and polyfluoroalkyl substances in certain consumer products.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            1 New Section; Consumer Protection; Per and Polyfluoroalkyl Substance Use Restricted. Amend  
2 RSA 149-M by inserting after section 63 the following new section:

3            149-M:64 Consumer Products; Per and Polyfluoroalkyl Substance Use Restricted.

4            I. In this section:

5                    (a) “Aftermarket stain and water resistant treatments” means treatments for textile and  
6 leather consumer products used in residential settings that have been treated during the  
7 manufacturing process for stain, oil, and water resistance but excludes products marketed or sold  
8 exclusively for use at industrial facilities during the manufacture of a carpet, rug, clothing, or shoe.

9                    (b) “Department” means the department of environmental services.

10                   (c) “Intentionally added” means the addition of a chemical in a product that serves an  
11 intended function in the product component.

12                   (d) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a class of  
13 fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

14                   (e) “Rug or carpet” means a thick fabric used to cover floors.

15            II.(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale,  
16 distribute for sale, or distribute for use in this state a rug or carpet to which PFAS have been  
17 intentionally added in any amount.

18                   (b) This paragraph shall not apply to the sale or resale of used products.

19            III.(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale,  
20 distribute for sale, or distribute for use in this state aftermarket stain and water resistant  
21 treatments for rugs or carpets to which PFAS have been intentionally added in any amount.

22                   (b) This paragraph shall not apply to the sale or resale of used products.

23            IV. The department may request a certificate of compliance from a manufacturer of rugs,  
24 carpets, or aftermarket stain and water resistant treatments. Within 30 days after receipt of the  
25 department’s request for a certificate of compliance, the manufacturer shall:

26                   (a) Provide the department with a certificate attesting that the manufacturer’s product  
27 or products comply with the requirements of this chapter; or

28                   (b) Notify persons who are selling a product of the manufacturer’s in this state that the  
29 sale is prohibited because the product does not comply with this chapter and submit to the  
30 department a list of the names and addresses of those persons notified.

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1           V. The commissioner of the department of environmental services shall, under RSA 541-A,  
2 adopt any rules necessary for the implementation, administration, and enforcement of this section.

3           2 Effective Date. This act shall take effect July 1, 2025.

**HB 465-FN- FISCAL NOTE  
AS INTRODUCED**

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**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$97,000	\$98,000
<b>Expenditures</b>	\$0	\$0	\$0	\$0
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**COUNTY:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	Indeterminable Increase

**LOCAL:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	Indeterminable Increase

**METHODOLOGY:**

This bill restricts the use of per and polyfluoroalkyl substances in rugs, carpets, and after market stain and water resistant treatments sold in New Hampshire.

Because the Department of Environmental Services is responsible for enforcing this statute, as well as promulgating the administrative rules, the Department assumes it would also be responsible for administering this ban. The ban would require the Department to regulate the manufacturing and retail sectors for carpeting, which represents a new responsibility that is outside the scope of it's current solid waste regulatory programs. The Department provided the following information and assumptions concerning the fiscal impact of the bill:

- To effectively administer this ban, the Department would need a new full-time Waste Management Specialist III position, at labor grade 24. The annual cost for this position would be approximately \$98,000. The bill does not specifically create or fund this position.

- The process for creating the position would need to be completed prior to FY 2025 and, because there is no provision for revenue, the general fund would be the funding source. The position would need to be filled by the beginning of FY 2025 in order to engage in rulemaking, develop educational materials, research existing manufacturers and distributors, conduct outreach to affected entities, and fulfill any other preliminary administrative tasks. Starting in FY 2026, the position would be primarily responsible for enforcement, complaint response and compliance assistance.
- The compliance with the bill may increase costs for manufacturers, with such costs ultimately passed on to consumers. As such, the bill may result in increased expenditures for state, county, and local governments that purchase carpeting or after-market treatments. The Department is unable to determine the extent to which such state, county and local expenditures may increase.

Due to the variability of factors involved, the Department is unable to accurately calculate the complete fiscal impact of this bill. The Department is able to predict the cost for the Waste Management Specialist III position. Although other fiscal impacts are possible, the Department does not have sufficient information to quantify such impacts. Regarding revenues, this bill is not expected to generate any revenues for state, county or local governments.

This bill does not provide an appropriation or authorization for a new position.

**AGENCIES CONTACTED:**

Department of Environmental Services