Thank you Chair Valdez, Vice-chair Hooton, and esteemed members of House Energy and Environment. My name is Michael Neil and I rise to strongly support HB 22-1244 on behalf of Colorado People's Alliance and myself. Thank you, Representatives Cutter and Bradfield for bringing this bill. While I live at the southern end of HD 2 in a zip code that is not one of the most polluted in the Denver area or the state, Colorado has a couple of the most affected zip codes in the nation when it comes to general toxicity of both air and water, as I suspect you know. Furthermore, as a consumer in contemporary society, I have some degree of exposure to toxic PFAS simply by existing. These "forever chemicals" take months if not years to degrade both in the wider environment and in the body. As we have heard, the accumulation of these toxins in the body raises the chances of birth defects, diabetes, cancer, and other diagnoses. This is a concern for all of us and, particularly those who live in poorer areas of the state with more processed food, container usage, and other necessities of daily life, but as a person with a disability, my already complex health condition is likely affected to a greater degree by PFAS chemicals than a perfectly healthy individual would be, I therefore appreciate both the phasing out of these chemicals as well as the notification of what products contain them, Just as the legislature did with the passage of HB 21-1189 last year, the passage of this bill, will be a great aid in providing the knowledge and opportunity for Coloradans to be educated consumers and healthier individuals.

Colorado House of Representatives
House Committee on Energy and Environment
200 E Colfax Avenue
Denver, CO 80203

April 7, 2022

Re: GBC Supports HB22-1345 Perfluoroalkyl And Polyfluoroalkyl Chemicals Bill

Good Business Colorado (GBC) is a statewide grassroots organization of over 420 business owner members in 31 counties across the state. Our values-driven members work together to advocate for a prosperous economy, equitable communities, and a sustainable environment. **On behalf of our membership, I urge you to please vote yes on House Bill 22-1345, Perfluoroalkyl And Polyfluoroalkyl Chemicals, to protect human health and water quality in our state.**

Water quality impacts all kinds of businesses, including brewers, distillers, outdoor recreation and tourism related businesses. We have heard from members with expertise in this area that HB22-1345 is a solid start to addressing the serious health issues caused by deadly PFAS chemicals in our water and our bodies.

> "As a technology company working on a viable solution for removing PFAS from water, one might think that IX Power Clean Water would not be interested in seeing HB 1345 get passed. But, let us assure you that there is more than enough PFAS contamination to keep us in business for many years to come. If anything, we would encourage the timeline for the elimination of PFAS in all manufacturing processes be sooner than indicated in the bill."
>
> -Deborah Deal, APR, Vice President, IX Power Clean Water

> "Numerous scientific reports show that a large number of humans have PFASs in our blood and these chemicals are even being passed from pregnant women into their newborns. We are surrounded by these chemical compounds from non-stick cookware to waterproof sealants to flame retardants. We need to start immediately to eliminate new products with these chemical compounds from being produced and sold. Imagine how long it will take to remove the products already in existence containing these chemicals or remove them from our soil and water. PFASs are considered forever chemicals for a reason. Let's be proactive, not reactive."
>
> -Margaret S. McRoberts, Founder, Stella Sustainability

Deborah has more to say in her compelling letter included below. Our members believe that business success cannot be measured by profit alone and that true success means that our planet, communities, and bottom lines are all thriving. The PFAS bill will help protect our increasingly precious water resources, our collective human health, and the businesses that count on water. **Please vote yes on House Bill 22-1345 Perfluoroalkyl And Polyfluoroalkyl Chemicals.**

Best Regards,

Debra Brown, Executive Director
Angelique Espinoza, Policy Director

Good Business Colorado
angelique@goodbusinessco.org

As a technology company working on a viable solution for removing PFAS from water, one might think that IX Power Clean Water would not be interested in seeing HB 1345 get passed. But, let us assure you that there is more than enough PFAS contamination to keep us in business for many years to come.

If anything, we would encourage the timeline for the elimination of PFAS in all manufacturing processes be sooner than indicated in the bill. PFAS is insidious. If you are reading this right now it is probably already in your body. Will it cause infertility if you are a male? If you are female will it cause you to miscarry your fetus, or damage your child before it is even born? Will the PFAS in your body cause diabetes, cancer in your liver, thyroid disease, asthma, and will it prevent your COVID vaccine from working as it should? Every day scientists are coming closer to the conclusion that yes, it will do all these things.

Our U.S. military bases appear to be the hardest hit by PFAS contamination. When a man or woman goes into the military they expect certain risks, but they shouldn't have to worry about the health of their family living in base housing!

PFAS contamination goes beyond military bases, however. It is everywhere! And, there are no federal standards or maximum contaminant levels (MCLs) for PFAS in drinking water. We at IX Power Clean Water encourage you to speed up legislation such as HB 1345. The fate of your family, and ours is in peril. We would be happy if the need for our new solution for removing PFAS from water was never needed.

Deborah Deal, APR
Vice President, IX Power Clean Water
Golden, Colorado

April 14, 2022

Hon. Alex Valdez
Chair, House Committee on Energy & Environment
200 E Colfax Ave
Denver, CO 80203

RE: House Bill 1345 – Oppose Broad PFAS Legislation

Chair Valdez,

On behalf of the Alliance for Automotive Innovation (Auto Innovators), I thank you for the opportunity to provide comments in opposition to House Bill 1345, legislation designed to broadly regulate the use of Perfluoroalkyl and Polyfluoroalkyl (PFAS) substances contained in products sold within the state. Focused on creating a safe and transformative path for sustainable industry growth, the Auto Innovators represent the automakers responsible for producing nearly 98 percent of new cars and light trucks sold in the U.S. each year, as well as major Tier 1 suppliers and other automotive technology companies.

House Bill 1345 seeks to address the use of products containing chemicals from the PFAS family. This bill treats all PFAS chemistries as the same, when in the fact the most notable chemistries of concern – the longer chain PFAS chemicals – were phased out years ago and are no longer manufactured or imported into the U.S. These longer chain chemistries have been replaced with shorter chain PFAS chemicals that regulatory agencies such as the EPA have determined to be safer. Many industries have invested heavily in the research and development of these shorter chain technologies as replacements for the phased-out longer chain chemicals. As a class, PFAS chemicals are considered essential in many applications, because they are resistant to heat, water, and oil. One of their essential qualities – the ability to withstand environmental elements – also means that these chemicals do not easily degrade. These characteristics have made PFAS critical to the manufacture of electronic devices, such as cell phones, tablets, and semi-conductors. We recognize that there has been growing attention paid to products containing PFAS, largely as a result of some notable applications of the chemical that have directly entered public groundwater, including firefighting foams and sewage repurposed as fertilizers. However, this diverse family of important chemical substances is used throughout a wide cross-section of industries, including aerospace, energy, automotive, health care, construction, telecommunications, textiles, and electronics.

PFAS in Auto Industry

The expectations for today's automobiles are high, and the environments in which vehicles must operate are harsh. From the coldest days of winter to summer driving through Death Valley, consumers expect their car or truck to get them there safely. The PFAS family of chemicals has helped provide this resiliency. PFAS chemicals are used to make coatings and products that resist heat, oil, stains, grease, and water. Such qualities are imperative on systems throughout the vehicle. For example, the heat resistance qualities of PFAS allow flexible fuel lines to safely deliver gasoline into a hot engine without causing a fire. Similarly, heat resistance – along with protection from water intrusion – protects the integrity of wire looms and sensors on a vehicle that allow today's advanced safety systems to function.

Brake fluids are hygroscopic, which means they absorb moisture from the atmosphere under normal humidity levels. PFAS coatings on brake lines keep brake systems operating at peak performance levels for extended periods. The ability of modern vehicles to emit drastically reduced emissions comes thanks to the chemical and heat resistant protections that PFAS provide to gaskets and O-rings, which keep engines tightly sealed. Likewise, PFAS coatings on cylinder heads and hoses increase fuel efficiency and reduce fugitive gasoline vapor emissions. It is not an exaggeration to say that nearly every automotive system depends on certain types of PFAS chemicals to provide a durable and reliable product to consumers.

None of this is to suggest that automakers are ignoring the possible impacts of the chemicals used to build today's vehicles. Automakers and their suppliers take such issues very seriously and are always looking for substitute compounds that can perform the same job with a lower environmental impact. Examples of such advancements are truly too long to list, but a representative sample can include the industry's move to waterbased paints, the use of soy-based foams in car seats and dashboards, the move away from lead in wheel weights and copper in brake pads, and the ongoing process to substitute a variety of flame retardants while still meeting Federal Motor Vehicle Safety Standards regarding flammability. The industry has even recognized areas where it can reduce the use of PFAS chemicals in specific applications, as it has already ceased use of long chain PFAS products, such as those in carpeting. Despite all this, however, there are some uses that cannot yet be replicated by any other known chemical.

While PFAS chemicals are used throughout today's vehicle to ensure a safe and reliable product for consumers, that does not mean that each application brings with it an added threat to consumer health or groundwater. Automobiles today have among the highest recycling rates of any consumer product. When a vehicle reaches end of life, there is already in place an entire industry built around the ability to dismantle and resell or recycle just over 85% of the vehicle.

Considerations for House Bill 1345

While seemingly well-intentioned, there are aspects of HB 1345 that may not have been fully considered when drafted. In particular, we wanted to highlight the massive nightmare that the reporting requirements contained in the bill would create and the unworkable regulatory framework envisioned. As we interpret the legislation, there would be an expectation on every manufacturer to report any product that contains any PFAS chemical and any other information deemed necessary by the department.

The EPA has identified over 600 different chemicals within the PFAS family. Looking at the auto industry alone, today's vehicle has approximately 30,000 identifiable parts, sourced from hundreds (or thousands) of suppliers across the world. The obligation on each automaker to analyze and collect the exact usages of each of the over 600 PFAS chemicals for each of the 30,000 parts on a vehicle will be a monumental task, which then must be replicated for each model of vehicle sold and the numerous replacement parts developed to service and maintain vehicles throughout their lifetime. A process that will be conducted by each of the roughly two dozen automakers presently selling in the country.

And this is representative of only one industry. Serious thought should be given to the avalanche of paperwork that this bill could generate once spread across all sectors of the economy. Will the state be in any position to process and manage these filings in any meaningful manner? As the legislation also considers an avenue to have individual applications of a PFAS chemical evaluated by the department as

being an “unavoidable use,” will the state be in any position to navigate and assess each request across these thousands upon thousands of filings?

It is also important to note that the federal government is actively working in this area. The U.S. Environmental Protection Agency (EPA) has its own Action Plan on PFAS and has started a few different initiatives listed in that link to address PFAS harms. See https://www.epa.gov/pfas/epa-actions-address-pfas. For instance, the EPA has promulgated rules that require notification and approval before long-chain PFAS could be used again, and more recently, in the past week, issued efforts that require additional facility-based reporting and limitations on low volume imports of PFAS chemicals. EPA’s plan is comprehensive and likely more than covers the concerns this legislation hopes to address.

If the Committee believes it is necessary to legislate in this area, we would strongly caution the legislation to be much more highly targeted, to avoid unintended disruptions in the supply chain or potential impacts on interstate commerce. First, each PFAS chemical should be regulated independently, not as a group. PFAS have a wide variety of different properties and uses. Due to this variation, it is inappropriate to regulate all PFAS as a single group. Instead, each individual chemistry should be regulated based on the specific risks it poses and risks associated with one member of the class should not be attributed to other members of the PFAS class without clear scientific justification. Beyond this, to best protect human health and the environment, a risk-based approach should focus agency resources on the highest priorities based on actual environmental, health, and safety risk of particular chemistries, not just the mere presence of a substance.

Auto Innovators and our member companies take the concerns of legacy chemicals seriously, and we support state efforts to ensure clean water, air, and soil for its citizens. This bill, however, goes further than necessary with its overly broad reach and all-inclusive approach. Quite frankly, this bill will result in an unworkable approach and likely negatively impact the ability of businesses to operate and sell their products in your state. Further, this will impact the state’s ability to procure critical products and materials. Given the lack of feasible alternatives and the critical uses of many PFAS substances of lesser concern than long chain PFAS, Auto Innovators recommends that Colorado work to significantly narrow the scope of the bill, realign it to complement ongoing EPA activities, and exempt motor vehicles and their replacement parts from the scope.

Thank you for your consideration of the Auto Innovators’ position. Please do not hesitate to contact me at lyates@autosinnovate.org or 202-326-5543, should I be able to provide any additional information.

Sincerely,

Leighton Yates
Director, State Affairs

Testimony before the Colorado House of Representatives
Energy & Environment Committee
Regarding Perfluoroalkyl and Polyfluoroalkyl Chemicals
Lindsey Stroud, Director
Consumer Center
Taxpayers Protection Alliance
April 14, 2022

Chairman Valdez, Vice-Chair Hooton and Members of the Committee:

Thank you for your time today to discuss perfluoroalkyl and polyfluoroalkyl chemicals (PFAS). My name is Lindsey Stroud and I am Director of the Taxpayers Protection Alliance's (TPA) Consumer Center. TPA is a non-profit, non-partisan organization dedicated to educating the public through the research, analysis and dissemination of information on the government's effects on the economy. TPA's Consumer Center focuses on providing up-to-date information on adult access to goods including alcohol, tobacco and vapor products, as well as regulatory policies that affect adult access to other consumer products, including harm reduction, technology, innovation, antitrust and privacy.

Introduction and Summary Points:

While lawmakers seek to address the still-largely unknown effects of exposure to perfluoroalkyl and polyfluoroalkyl chemicals (PFAS), broad bans on the use of such chemicals in many common household goods does not address the variation of PFAS. Moreover, such exclusions in many items would lead to increase costs for consumers, who are already facing high prices. Rather than force companies and ultimately consumers to encroaching bans, lawmakers should work with manufacturers who are already removing harmful PFAS on sensible programs that can alleviate the burden posed by a draconian ban.

- PFAS are man-made chemical compounds used in a variety of consumer goods including automotive, cosmetics, construction, and electronics, among others.
- There are more than 4,700 identifiable PFAS, yet very little data on their health and environmental impact.
- The Environmental Protection Agency (EPA) notes that there are "large and diverse types of PFAS" and has moved forward with efforts to classify them based on their description and categorization.
- There is questionable evidence of the harm posed by PFAs.
- A 2018 expert panel concluded that "there is no current evidence that suggests an increase in overall cancer risk."
- The Centers for Disease Control and Prevention reported in 2022 that "[h]uman health effects from exposure to low environmental levels of PFAS are uncertain."

- The legislation would unfairly punish certain manufacturers, and not others who may also be using PFAS in their manufacturing processes. The ultimate cost of compliance of replacing PFAS with other chemicals will be forced upon consumers.
- Manufacturers have voluntarily removed known harmful PFAS from their companies' products. In 2006, eight major manufacturers joined the EPA to phase out a certain type of PFAS. According to the EPA, all the participating manufactures had reported they had met the program's goals.

Regulation of Perfluoroalkyl and Polyfluoroalkyl Chemicals

PFAS are man-made chemical compounds used in a variety of consumer goods including automotive, cosmetics, construction, and electronics, among others. They are commonly found in "non-stick cookware, water-repellent clothing, stain resistant fabrics and carpets, some cosmetics, some firefighting foams, and products that resist grease, water, and oil."[1]

It is important to note that not all PFAS are the same, and many have not been studied extensively to provide reliable data indicating a significant threat to humans and/or the environment.

The EPA recently unveiled a national strategy for identification of testing PFAS and noted in October 2021, that "[d]ue to the large and diverse types of PFAS, there have been several efforts to develop systematic terminology for their description and categorization."

Moreover, there are currently 176 PFASs that have been added "to the list of chemicals covered by the Toxic Release Inventory (TRI)."[2] TRI was part of the National Defense Authorization Act of 2020 and "tracks the management of certain toxic chemicals that may pose a threat to human health and the environment."[3] Manufacturers of those chemicals "must report annually how much of each chemical is released to the environment and/or managed through recycling, energy recovery and treatment."

Further, in June 2021, the EPA issued a proposed rule that would impose "reporting and recordkeeping requirements for [PFAS] under the Toxic Substances Control Act."[4] The proposal would require certain manufacturers that had manufactured any PFAs "in any year since January 1, 2011, to electronic reported information regarding PFAS uses, production volumes, disposal, exposures, and hazards." The EPA has "identified at least 1,364 PFAS that would be potentially subject to the proposed rule."[5]

Moreover, there are more than 4,700 identifiable PFAS, yet very little data on their health and environmental impact.[6]

A 2018 expert panel concluded that "there is no current evidence that suggests an increase in overall cancer risk."[7] This is after a 2014 study determined that "the epidemiologic evidence

does not support the hypothesis of a causal association between [exposure of certain PFAS] and cancer in humans."[8]

Even the EPA notes that of the thousands of PFAS, "some … have been more widely used and studied than others."[9] The Centers for Disease Control and Prevention has reported that "[h]uman health effects from exposure to low environmental levels of PFAS are uncertain."[10]

Rather than imposing a blanket ban, Colorado lawmakers should await EPA's finalized rule and focus on PFAS that are known to actually cause harm.

Proposal Would Ultimately Harm Consumers, At Time When Already Burdened with High Prices

Ultimately, it will be Coloradan consumers that are harmed by the proposed legislation. Products that would be banned include many consumer goods including:

- Carpets and/or rugs
- Cookware
- Cosmetics
- Fabric treatments
- Food packaging
- Juvenile products
- Oil and gas products
- Textile furnishings
- Upholstered furniture

The legislation would unfairly punish certain manufacturers, and not others who may also be using PFAS in their manufacturing processes. The ultimate cost of compliance of replacing PFAS with other chemicals will be forced upon consumers.

The EPA already burdens Americans with regulatory costs. According to the Competitive Enterprise Institute's *Ten Thousand Commandments: An Annual Snapshot of the Federal Regulatory State,* in 2021, "the EPA alone spent $5.561 billion" of the $78 billion in "regulatory agency enforcement costs."[11]

Further, Colorado is facing higher inflation costs than the rest of the country. While the 2022 January Consumer Price Index had increased to 7.5 percent of the United States, in the Denver metro area, it "was even higher" at 7.9 percent.[12] Worse, the price index for household furnishings and operations – which would be disproportionately impacted by this legislation – had increased by 2.1 percent in the region for the two months ending in March, 2022.[13]

Burdening consumers with increased costs due to the removal of PFAS that may not even be harmful is not only economically unsound but will unfairly burden low-income persons.

Manufacturers Have Already Removed Well-Known Harmful PFAS

The most-commonly studied PFAS are two chemicals – perfluorooctanoic acid and perfluorooctane sulfonate, also known as PFOA and PFOS, respectively. While the full scope of their health and environmental impact is not yet fully understood, these have been identified by the EPA that certain levels of exposure "may result in adverse health effects."[14]

Due to these known harms, manufacturers have moved to voluntarily remove these chemicals from their products.

In 2000, 3M, which at the time was the only U.S. manufacturer of PFOS, announced a voluntarily phase out of PFOS and would find substitutes. Upon the announcement, then-EPA Administrator Carol M. Browner commended the company, noting that "3M deserves great credit for identifying this problem and coming forward voluntarily."[15]

In 2006, the EPA and eight major manufacturers of PFOA launched the PFOA Stewardship Program, in which the "EPA asked the … manufacturers … to commit to reducing PFOA from facility emission and product content by 95 percent no later than 2010, and to work toward eliminating PFOA from emissions and product content no later than 2015."[16]

Participating companies agreed to the reduction and "submitted annual public reports on their progress," as well as "detailed, confidential business information on their progress in support of their public reports."[17] According to the EPA, all of the participating manufacturers reported that they had "met the PFOA Stewardship Program goals."[18]

Moreover, chemical manufacturers are also committed to science-based regulations that could lessen any possible harmful effects from their products.

Recently, manufacturers lauded the EPA's recognition of the differing types of PFAS, noting that "EPA's Roadmap reinforces the differences between these chemistries and that they should not be all grouped together."[19]

Conclusion & Summary Points:

Policymakers should be wary of the differing types of PFAS and the vast amount of missing data indicating that all of them cause the same level of harm. Rather than an outright ban of products containing any of the thousands of PFAS, lawmakers should await federal regulations that recognize the differing chemicals and their harms. Blanket bans will only serve to harm consumers, who are already burdened by high costs of living.

- Perfluoroalkyl and polyfluoroalkyl chemicals (PFAS) are man-made chemical compounds used in a variety of consumer goods including automotive, cosmetics, construction, and electronics, among others.

TAXPAYERS PROTECTION ALLIANCE

- There are over 4,700 identifiable PFAS, yet very little data on their health and environmental impact.
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April 14, 2022

Hon. Alex Valdez
Chair, House Committee on Energy & Environment
200 E Colfax Ave
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Considerations for House Bill 1345

While seemingly well-intentioned, there are aspects of HB 1345 that may not have been fully considered when drafted. In particular, we wanted to highlight the massive nightmare that the reporting requirements contained in the bill would create and the unworkable regulatory framework envisioned. As we interpret the legislation, there would be an expectation on every manufacturer to report any product that contains any PFAS chemical and any other information deemed necessary by the department.

The EPA has identified over 600 different chemicals within the PFAS family. Looking at the auto industry alone, today's vehicle has approximately 30,000 identifiable parts, sourced from hundreds (or thousands) of suppliers across the world. The obligation on each automaker to analyze and collect the exact usages of each of the over 600 PFAS chemicals for each of the 30,000 parts on a vehicle will be a monumental task, which then must be replicated for each model of vehicle sold and the numerous replacement parts developed to service and maintain vehicles throughout their lifetime. A process that will be conducted by each of the roughly two dozen automakers presently selling in the country.

And this is representative of only one industry. Serious thought should be given to the avalanche of paperwork that this bill could generate once spread across all sectors of the economy. Will the state be in any position to process and manage these filings in any meaningful manner? As the legislation also considers an avenue to have individual applications of a PFAS chemical evaluated by the department as

being an “unavoidable use,” will the state be in any position to navigate and assess each request across these thousands upon thousands of filings?

It is also important to note that the federal government is actively working in this area. The U.S. Environmental Protection Agency (EPA) has its own Action Plan on PFAS and has started a few different initiatives listed in that link to address PFAS harms. See https://www.epa.gov/pfas/epa-actions-address-pfas. For instance, the EPA has promulgated rules that require notification and approval before long-chain PFAS could be used again, and more recently, in the past week, issued efforts that require additional facility-based reporting and limitations on low volume imports of PFAS chemicals. EPA’s plan is comprehensive and likely more than covers the concerns this legislation hopes to address.

If the Committee believes it is necessary to legislate in this area, we would strongly caution the legislation to be much more highly targeted, to avoid unintended disruptions in the supply chain or potential impacts on interstate commerce. First, each PFAS chemical should be regulated independently, not as a group. PFAS have a wide variety of different properties and uses. Due to this variation, it is inappropriate to regulate all PFAS as a single group. Instead, each individual chemistry should be regulated based on the specific risks it poses and risks associated with one member of the class should not be attributed to other members of the PFAS class without clear scientific justification. Beyond this, to best protect human health and the environment, a risk-based approach should focus agency resources on the highest priorities based on actual environmental, health, and safety risk of particular chemistries, not just the mere presence of a substance.

Auto Innovators and our member companies take the concerns of legacy chemicals seriously, and we support state efforts to ensure clean water, air, and soil for its citizens. This bill, however, goes further than necessary with its overly broad reach and all-inclusive approach. Quite frankly, this bill will result in an unworkable approach and likely negatively impact the ability of businesses to operate and sell their products in your state. Further, this will impact the state’s ability to procure critical products and materials. Given the lack of feasible alternatives and the critical uses of many PFAS substances of lesser concern than long chain PFAS, Auto Innovators recommends that Colorado work to significantly narrow the scope of the bill, realign it to complement ongoing EPA activities, and exempt motor vehicles and their replacement parts from the scope.

Thank you for your consideration of the Auto Innovators’ position. Please do not hesitate to contact me at lyates@autosinnovate.org or 202-326-5543, should I be able to provide any additional information.

Sincerely,

Leighton Yates
Director, State Affairs

Testimony before the Colorado House of Representatives
Energy & Environment Committee
Regarding Perfluoroalkyl and Polyfluoroalkyl Chemicals
Lindsey Stroud, Director
Consumer Center
Taxpayers Protection Alliance
April 14, 2022

Chairman Valdez, Vice-Chair Hooton and Members of the Committee:

Thank you for your time today to discuss perfluoroalkyl and polyfluoroalkyl chemicals (PFAS). My name is Lindsey Stroud and I am Director of the Taxpayers Protection Alliance's (TPA) Consumer Center. TPA is a non-profit, non-partisan organization dedicated to educating the public through the research, analysis and dissemination of information on the government's effects on the economy. TPA's Consumer Center focuses on providing up-to-date information on adult access to goods including alcohol, tobacco and vapor products, as well as regulatory policies that affect adult access to other consumer products, including harm reduction, technology, innovation, antitrust and privacy.

Introduction and Summary Points:

While lawmakers seek to address the still-largely unknown effects of exposure to perfluoroalkyl and polyfluoroalkyl chemicals (PFAS), broad bans on the use of such chemicals in many common household goods does not address the variation of PFAS. Moreover, such exclusions in many items would lead to increase costs for consumers, who are already facing high prices. Rather than force companies and ultimately consumers to encroaching bans, lawmakers should work with manufacturers who are already removing harmful PFAS on sensible programs that can alleviate the burden posed by a draconian ban.

- PFAS are man-made chemical compounds used in a variety of consumer goods including automotive, cosmetics, construction, and electronics, among others.
- There are more than 4,700 identifiable PFAS, yet very little data on their health and environmental impact.
- The Environmental Protection Agency (EPA) notes that there are "large and diverse types of PFAS" and has moved forward with efforts to classify them based on their description and categorization.
- There is questionable evidence of the harm posed by PFAs.
- A 2018 expert panel concluded that "there is no current evidence that suggests an increase in overall cancer risk."
- The Centers for Disease Control and Prevention reported in 2022 that "[h]uman health effects from exposure to low environmental levels of PFAS are uncertain."

- The legislation would unfairly punish certain manufacturers, and not others who may also be using PFAS in their manufacturing processes. The ultimate cost of compliance of replacing PFAS with other chemicals will be forced upon consumers.
- Manufacturers have voluntarily removed known harmful PFAS from their companies' products. In 2006, eight major manufacturers joined the EPA to phase out a certain type of PFAS. According to the EPA, all the participating manufactures had reported they had met the program's goals.

Regulation of Perfluoroalkyl and Polyfluoroalkyl Chemicals

PFAS are man-made chemical compounds used in a variety of consumer goods including automotive, cosmetics, construction, and electronics, among others. They are commonly found in "non-stick cookware, water-repellent clothing, stain resistant fabrics and carpets, some cosmetics, some firefighting foams, and products that resist grease, water, and oil."[1]

It is important to note that not all PFAS are the same, and many have not been studied extensively to provide reliable data indicating a significant threat to humans and/or the environment.

The EPA recently unveiled a national strategy for identification of testing PFAS and noted in October 2021, that "[d]ue to the large and diverse types of PFAS, there have been several efforts to develop systematic terminology for their description and categorization."

Moreover, there are currently 176 PFASs that have been added "to the list of chemicals covered by the Toxic Release Inventory (TRI)."[2] TRI was part of the National Defense Authorization Act of 2020 and "tracks the management of certain toxic chemicals that may pose a threat to human health and the environment."[3] Manufacturers of those chemicals "must report annually how much of each chemical is released to the environment and/or managed through recycling, energy recovery and treatment."

Further, in June 2021, the EPA issued a proposed rule that would impose "reporting and recordkeeping requirements for [PFAS] under the Toxic Substances Control Act."[4] The proposal would require certain manufacturers that had manufactured any PFAs "in any year since January 1, 2011, to electronic reported information regarding PFAS uses, production volumes, disposal, exposures, and hazards." The EPA has "identified at least 1,364 PFAS that would be potentially subject to the proposed rule."[5]

Moreover, there are more than 4,700 identifiable PFAS, yet very little data on their health and environmental impact.[6]

A 2018 expert panel concluded that "there is no current evidence that suggests an increase in overall cancer risk."[7] This is after a 2014 study determined that "the epidemiologic evidence

does not support the hypothesis of a causal association between [exposure of certain PFAS] and cancer in humans."[8]

Even the EPA notes that of the thousands of PFAS, "some … have been more widely used and studied than others."[9] The Centers for Disease Control and Prevention has reported that "[h]uman health effects from exposure to low environmental levels of PFAS are uncertain."[10]

Rather than imposing a blanket ban, Colorado lawmakers should await EPA's finalized rule and focus on PFAS that are known to actually cause harm.

Proposal Would Ultimately Harm Consumers, At Time When Already Burdened with High Prices

Ultimately, it will be Coloradan consumers that are harmed by the proposed legislation. Products that would be banned include many consumer goods including:

- Carpets and/or rugs
- Cookware
- Cosmetics
- Fabric treatments
- Food packaging
- Juvenile products
- Oil and gas products
- Textile furnishings
- Upholstered furniture

The legislation would unfairly punish certain manufacturers, and not others who may also be using PFAS in their manufacturing processes. The ultimate cost of compliance of replacing PFAS with other chemicals will be forced upon consumers.

The EPA already burdens Americans with regulatory costs. According to the Competitive Enterprise Institute's *Ten Thousand Commandments: An Annual Snapshot of the Federal Regulatory State,* in 2021, "the EPA alone spent $5.561 billion" of the $78 billion in "regulatory agency enforcement costs."[11]

Further, Colorado is facing higher inflation costs than the rest of the country. While the 2022 January Consumer Price Index had increased to 7.5 percent of the United States, in the Denver metro area, it "was even higher" at 7.9 percent.[12] Worse, the price index for household furnishings and operations – which would be disproportionately impacted by this legislation – had increased by 2.1 percent in the region for the two months ending in March, 2022.[13]

Burdening consumers with increased costs due to the removal of PFAS that may not even be harmful is not only economically unsound but will unfairly burden low-income persons.

Manufacturers Have Already Removed Well-Known Harmful PFAS

The most-commonly studied PFAS are two chemicals – perfluorooctanoic acid and perfluorooctane sulfonate, also known as PFOA and PFOS, respectively. While the full scope of their health and environmental impact is not yet fully understood, these have been identified by the EPA that certain levels of exposure "may result in adverse health effects."[14]

Due to these known harms, manufacturers have moved to voluntarily remove these chemicals from their products.

In 2000, 3M, which at the time was the only U.S. manufacturer of PFOS, announced a voluntarily phase out of PFOS and would find substitutes. Upon the announcement, then-EPA Administrator Carol M. Browner commended the company, noting that "3M deserves great credit for identifying this problem and coming forward voluntarily."[15]

In 2006, the EPA and eight major manufacturers of PFOA launched the PFOA Stewardship Program, in which the "EPA asked the … manufacturers … to commit to reducing PFOA from facility emission and product content by 95 percent no later than 2010, and to work toward eliminating PFOA from emissions and product content no later than 2015."[16]

Participating companies agreed to the reduction and "submitted annual public reports on their progress," as well as "detailed, confidential business information on their progress in support of their public reports."[17] According to the EPA, all of the participating manufacturers reported that they had "met the PFOA Stewardship Program goals."[18]

Moreover, chemical manufacturers are also committed to science-based regulations that could lessen any possible harmful effects from their products.

Recently, manufacturers lauded the EPA's recognition of the differing types of PFAS, noting that "EPA's Roadmap reinforces the differences between these chemistries and that they should not be all grouped together."[19]

Conclusion & Summary Points:

Policymakers should be wary of the differing types of PFAS and the vast amount of missing data indicating that all of them cause the same level of harm. Rather than an outright ban of products containing any of the thousands of PFAS, lawmakers should await federal regulations that recognize the differing chemicals and their harms. Blanket bans will only serve to harm consumers, who are already burdened by high costs of living.

- Perfluoroalkyl and polyfluoroalkyl chemicals (PFAS) are man-made chemical compounds used in a variety of consumer goods including automotive, cosmetics, construction, and electronics, among others.

TAXPAYERS PROTECTION ALLIANCE

- There are over 4,700 identifiable PFAS, yet very little data on their health and environmental impact.
- The EPA notes that there are "large and diverse types of PFAS" and has moved forward with efforts to classify them based on their description and categorization.
- There is questionable evidence of the harm posed by PFAs.
- A 2018 expert panel concluded that "there is no current evidence that suggests an increase in overall cancer risk."
- The Centers for Disease Control and Prevention has reported that "[h]uman health effects from exposure to low environmental levels of PFAS are uncertain."
- The legislation would unfairly punish certain manufacturers, and not others who may also be using PFAS in their manufacturing processes. The ultimate cost of compliance of replacing PFAS with other chemicals will be forced upon consumers.
- Manufacturers have voluntarily removed known harmful PFAS from their companies' products. In 2006, eight major manufacturers joined the EPA to phase out a certain type of PFAS. According to the EPA, all the participating manufactures had reported they had met the program's goals.

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[1] Agency for Toxic Substances and Disease Registry, "What are PFAS?," U.S. Department of Health and Human Services, November 18, 2021, https://www.atsdr.cdc.gov/pfas/health-effects/overview.html#:~:text=PFAS%20are%20man%2Dmade%20chemicals,grease%2C%20water%2C%20and%20oil.. Accessed April 12, 2022.

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[3] United States Environmental Protection Agency, "What is the Toxics Release Inventory?," https://www.epa.gov/toxics-release-inventory-tri-program/what-toxics-release-inventory. Accessed April 12, 2022.

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[10] Centers for Disease Control and Prevention, "Per-and Polyfluoroalkyl Substances (PFAS)," February 2, 2022, https://www.cdc.gov/biomonitoring/PFAS_FactSheet.html.
[11] Clyde Wayne Crews, "Ten Thousand Commandments 2021," Competitive Enterprise Institute, June 30, 2021, https://cei.org/studies/ten-thousand-commandments-2021/.
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[16] United States Environmental Protection Agency, "Fact Sheet: 2010/2015 PFOA Stewardship Program," March 4, 2021, https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/fact-sheet-20102015-pfoa-stewardship-program. Accessed April 12, 2022.
[17] *Ibid.*
[18] *Ibid.*
[19] American Chemistry Council, "ACC Statement on EPA's PFAS Roadmap," October 18, 2021, https://www.americanchemistry.com/chemistry-in-america/news-trends/press-release/2021/acc-statement-on-epa-s-pfas-roadmap.

Testimony of American Apparel & Footwear Association Seeking Amendments: HB 22-1345 Perfluoroalkyl and Polyfluoroalkyl Chemicals Consumer Protection Act

April 14, 2022

On behalf of the American Apparel & Footwear Association (AAFA), I am providing these comments regarding HB 22-1345 - Perfluoroalkyl and Polyfluoroalkyl Chemicals Consumer Protection Act.

AAFA would like to offer several recommendations that, when adopted, will make this legislation stronger, more effective, and focused on a risk assessment of PFAS chemicals with an appropriate phased out approach that will put us on a path to bring more sustainable alternatives online as quickly and efficiently as possible.

The American Apparel & Footwear Association (AAFA) is the national trade association representing apparel, footwear and other sewn products companies, and their suppliers, which compete in the global market. Representing more than 1,000 world famous name brands. We are the trusted public policy and political voice of the apparel and footwear industry, its management, and shareholders, its three million U.S. workers, and its contribution of more than $350 billion in annual U.S. retail sales.

AAFA provides exclusive expertise in trade, brand protection, and supply chain & manufacturing to help our members navigate the complex regulatory environment, lower costs, and grow their sustainability and product safety efforts. With many of our members engaged in the production and sale of children's clothing and footwear, we are on the front lines of product safety. It is our members who design and execute the quality and compliance programs that stitch product safety into every garment and shoe we make. To support our members in this effort, AAFA has taken the lead in educating our industry on the development, interpretation, and implementation of product safety standards and regulations.

HB 22-1345 would institute broad reporting requirements on manufacturers of all products containing PFAS sold in Colorado, ban the sale of products containing PFAS in a variety of product categories and establish a future regulatory scheme to ban additional product categories containing PFAS.

Collectively we support responsible production, use and management of fluorinated substances, including regulatory requirements that are protective of human health and the environment, taking into consideration the diversity of physical and chemical properties and the environmental and health profiles of these substances.

It's important to note that all PFAS chemicals are not the same. Individual chemicals have their own unique properties and uses, as well as environmental and health profiles. For this reason, there are critical use requirements for certain PFAS class of chemicals where no suitable alternative is yet available.

As written, HB 22-1345 would apply a one-size-fits-all approach to chemical regulation that is neither scientifically accurate, nor appropriate.

Our members are leading efforts to aggressively phase out the use of perfluoroalkyl and polyfluoroalkyl chemicals with a goal of a complete phase out by 2027 of all 12,000+ PFAS chemicals in our products.

We are continuing to explore suitable alternative chemicals that meet these performance standards for specific situations, such as medical devices, hazardous work and environmental conditions, and extreme weather situations that would compromise the health and safety of the user. While some manufacturers are already working to transition their product lines to PFAS-free alternatives, this process is complex, involving research and development of new materials, wholesale redesigns of existing products and establishing new supply chains.

We respectfully request that you work with the manufacturing and retail stakeholders to create a pathway in this legislation for product-specific determinations based on reliable scientific evidence, and on amendments to address the following issues that would create impediments to implementation and development of alternatives and restrict access to high-performance products.

We have several concerns with the proposed reporting requirements including:

- An overly broad definition of PFAS that does not consider differing health/safety profiles, uses or potential for exposure.
- An overly aggressive timeline for fees and product bans.
    - We fully support the premise; however our industry needs time to work through inventory and build up suppliers for available alternatives.
- Overlap and redundancy with new PFAS reporting requirements underway at the U.S. Environmental Protection Agency (USEPA).
- Lack of clarity on how this information will be presented to the public to ensure information is presented in an unbiased, scientifically sound manner that does not cause unnecessary concern.
- Lack of any confidential business information/trade secret protections.

Congress and the Biden Administration recently authorized significant legislation with new rules regulating PFAS.[1] Subsequently, under the Toxic Release Inventory (TRI) program companies or federal facilities that release 100 or more pounds of the 179 identified PFAS substances must collect and publicly report information on the amount that is released into the air, water, or land, and the quantities managed through disposal, energy recovery, recycling or treatment. Additionally, the EPA is undergoing rulemaking under the Toxic Substances Control Act (TSCA) Section 8 that would require those who manufacture (including import) any identified PFAS to report information regarding PFAS uses, disposal, exposures, hazards and production volumes.[2]

Our members adhere to strict reporting requirements under our federal regulatory system, including through the EPA's TRI program. The notification requirement for all products in HB 22-1345 would result in a patchwork of different federal and state obligations that would be confusing to Colorado businesses and consumers and undermine confidence in our regulatory system.

Additionally, we request more defined guardrails to guide future rulemakings on designated priority product categories. Additional criteria and process considerations are also needed that would guide identification and prioritization of potential priority products.

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[1] S.1790 - National Defense Authorization Act for Fiscal Year 2020

[2] https://www.regulations.gov/document/EPA-HQ-OPPT-2020-0549-0001

In conclusion, we appreciate the opportunity to submit comments and we believe there are many opportunities for further collaboration. We look forward to continuing to work with the Colorado legislature on the regulation of substances in consumer products for the benefit of consumer product safety and public health. In the meantime, our members continue to design and execute the quality and compliance programs that emphasize product safety for every individual who steps into our apparel and footwear products.

Thank you for your time and consideration in this matter.

April 13, 2022

Representative Lisa Cutter
200 E Colfax, Room 307
Denver, CO 80203

RE: HB 22-1345 as introduced 3/28/22 OPPOSE

Dear Representative Cutter:

The undersigned organizations must respectfully take an **OPPOSE** position on HB 22-1345, legislation that would impose broad reporting requirements on manufacturers of all products containing PFAS sold in Colorado, ban the sale of products containing PFAS in a variety of product categories and establish a future regulatory scheme to ban additional product categories containing PFAS.

PFAS, or fluorotechnology, are a diverse group of chemistries characterized by the strong bond between fluorine and carbon. Because of this strong bond, PFAS provides products with strength, durability, stability, and resilience. **These properties are critical to the reliable and safe function of a broad range of products that are important for Colorado businesses and consumers, such as smart phones, tablets, and telecommunications systems; aircraft; solar panels and turbines critical to alternative energy development; semiconductor manufacturing; medical devices and technology such as MRI imaging devices and pacemakers; COVID vaccines and test kits; lithium batteries, including those for electric vehicles; and engine wiring, fuel lines and sensors**. In fact, PFAS are critical to our nation's supply chain resiliency.

Collectively, we support the responsible production, use and management of fluorinated substances, including regulatory requirements that are protective of human health and the environment, taking into consideration the diversity of physical and chemical properties and the environmental and health profiles of these substances.

One-Size-Fits-All Approach is Neither Accurate, nor Appropriate

It is important to note that all PFAS chemistries are not the same. Individual chemistries have their own unique properties and uses, as well as environmental and health profiles. According to the EPA, "approximately 600 PFAS are manufactured (including imported) and/or used in the United States."[1] Among these 600 are substances in the solid (e.g., fluoropolymers), liquid (e.g., fluorotelomer alcohols) and gaseous (e.g., hydrofluorocarbon refrigerants) forms. The fundamental physical, chemical, and biological properties of solids, liquids and gases are clearly different from one another.

As written, HB 22-1345 would apply a one-size-fits-all approach to chemical regulation that is neither scientifically accurate, nor appropriate.

Overly Broad Reporting Requirements

The proposed reporting requirements are too broad. We have several concerns with them, including:

- Overly broad definition of PFAS which does not consider differing health/safety profiles, uses or potential for exposure.
- Overlap and redundancy with new PFAS reporting requirements being developed by EPA.
- Lack of clarity on how this information will be presented to the public to ensure information is presented in an unbiased, scientifically sound manner that does not cause unnecessary concern.
- Lack of any confidential business information/trade secret protections.

EPA Adding of PFAS to Toxic Release Inventory and TSCA Reporting

Recently, Congress and the Biden Administration authorized significant legislation with new rules regulating PFAS.[2] Subsequently, under the Toxic Release Inventory (TRI) program, EPA required that companies or federal facilities that release 100 or more pounds of 179 identified PFAS substances must collect and publicly report information on the amount that is released into the air, water, or land, and the quantities managed through disposal, energy recovery, recycling or treatment. Additionally, EPA has a rulemaking underway under Section 8 of the Toxic Substances Control Act (TSCA) that would require those who manufacture (or import) any identified PFAS to report information regarding PFAS uses, disposal, exposures, hazards and production volumes.[3]

Our members adhere to strict reporting requirements under our federal regulatory system, including EPA's TRI program. The notification requirement for all products in HB 22-1345 would result in a patchwork of different federal and state obligations that would be confusing to Colorado businesses and consumers alike and undermine confidence in our regulatory system.

Future Expansive Regulatory Framework

In addition to the nine product categories HB22-1345 proposes to ban by January 1, 2024, **this legislation could eventually ban thousands of products from being sold or distributed in Colorado.** This could have far-reaching negative consequences for nearly every sector of the economy, including aerospace, automotive, alternative energy, healthcare, building and construction, electronics, pharmaceuticals, and agriculture. This is an unprecedented approach for Colorado to take on this important class of chemistry.

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[1] https://www.govinfo.gov/content/pkg/FR-2019-12-04/pdf/2019-26034.pdf

[2] S.1790 - National Defense Authorization Act for Fiscal Year 2020

[3] https://www.regulations.gov/document/EPA-HQ-OPPT-2020-0549-0001

Given that multiple industries depend on high performance PFAS, **this legislation could undermine effective product design, and in some cases, overall product safety and efficacy for a broad range of products - including applications listed above that are important for public safety and public health.** Further, it could adversely impact uses of this technology that are important for our society's broader sustainability objectives, including support for alternative energy and greenhouse gas reduction efforts.

The proposed framework lacks sufficient guardrails to guide future rulemakings on designated priority product categories. Moreover, additional criteria and process considerations are lacking that would guide identification and prioritization of potential priority products.

State Procurement Implications

A**s** previously noted, the broad scope of this legislation, if applied to the State's procurement policy as currently proposed, could prohibit the purchase of critical products, including products with key uses that are necessary for public health, public safety and sustainability. Such prohibitions could fundamentally undermine the state's procurement of essential items, including electric vehicles, solar panels, medicines and vaccines.

For these reasons, we must respectfully oppose HB22-1345. Thank you in advance for considering our views. Should you have any questions, please contact Lindsay Stovall at 916-448-2581.

Sincerely,

Alliance for Automotive Innovation
American Chemistry Council
American Coke and Coal Chemicals Institute
American Fuel and Petrochemical Manufacturers
Association of Equipment Manufacturers
Association of Home Appliance Manufacturers
Household Commercial Products Association
Flexible Packaging Association
Fluid Sealing Association
National Association of Chemical Distributors
National Council of Textile Organizations
Outdoor Power Equipment Institute

cc: Representative Mary Bradfield
Members, House Energy and Environment Committee

I have read the text of this bill – HB22_1345 and agree that more PFAS and other such chemicals of concern need to be halted from coming into this state in every form in which they occur, nor can we wait for them to be replaced with safer options. In addition to what is stated in the bill with regard to prevention of future introductions of such chemicals by manufacturers into this state, these chemicals are **already** contaminating soils and ground waters such as the areas around Lowry Landfill Super Fund [LLSF] site affecting residents of Arapahoe County.

In October 2021, Peer (Public Employee for Environmental Responsibility), through a FOIA request notes U.S. EPA data reveals some 120,000 facilities in the United States "may be handling" PFAS – Actually, Colorado has 1/6th of the 120,000 sites - one of the named facilities is Lowry Landfill. CDPHE 2020 testing of primary and secondary pumps at Denver Arapahoe Chemical Waste Processing Facility [DACWPF] – adjacent to Lowry Landfill - found 301 ppt of PFOA and 430 ppt of PFOS. These same chemicals were some of the original chemical waste accepted by Lowry Landfill Super Fund [LLSF] site which were later diverted to DACWPF. Therefore, they are very likely present at LLSF since these chemicals do not break down and are refereed to as "forever chemicals."

"*Recent tests conducted by the Colorado Department of Public Health & Environment (CDPHE) have shown alarmingly high concentrations of PFAS in both leachate collection systems at the Denver Arapahoe Chemical Waste Processing Facility [DACWPF] located next to the Lowry Landfill Superfund Site. In addition, PEER has obtained data from the U.S. Environmental Protection Agency (EPA) listing Lowry as a facility that "may be handling" PFAS."*
"Leachate from Lowry is likely to contain PFAS due to the fact it received waste similar to that the Arapahoe Chemical Waste Processing Facility managed after Lowry stopped accepting chemical waste in 1980. Contamination from the facility can be found in nearby surface and groundwater, an area that includes thousands of homes. These facilities are near communities drawing on well water, notably the Gun Club Estates Development."

The above quotes are taken from a press release dated March 22, 2022 by PEER – Public Employees for Environmental Responsibility (PEER.org). This group has been working with the Lowry Landfill Superfund Site **C**itizen **A**dvisory **G**roup recently to draw needed attention to the existence of these forever chemicals present in alarming amounts very near existing homes and new housing developments. No entity can say for sure that "no one is drinking the water" until all the necessary testing is done and plans are in place to continue the regular testing of nearby domestic wells, the removal, capture and treatment of the chemicals found to be there and assure the safety of the ground water and aquifers.

It is our - LLSF CAG - request that you **give consideration to <u>adding text</u> to the bill to include remediation of existing** contamination, which could well be equal to or greater than the threat of preventing these chemicals from our state in the future. The **C**itizens **A**dvisory **G**roup urges you to include in the regulatory portions of this bill the development and implementation of a plan to regularly test the in-fluent and effluent of the water treatment facility at Lowry Landfill Super Fund site and implement a plan for storage of PFAS contaminated waste.

There is an immediate need to address this situation. The state of Colorado cannot wait for future legislation to include dealing with **<u>what already exists,</u>** given the time it takes for such legislation to move thorough the process and then the time to implement any solutions. The state of Colorado also cannot wait for the EPA to **<u>actually</u>** set limits for these chemicals before they will take administrative actions to enforce the necessary processes to eliminate the contamination. They are currently **<u>considering</u>** setting such limits. The decisions could take years.

There is no way to overstate the concerns we citizens have for our health and safety and that of the future residents of this area. Our aquifers - Dawson, Denver, Arapahoe and Laramie-Fox Hills, which lie beneath the landfill, are certainly in danger from this contamination and likely already contain alarming amounts of PFAS.

Sincerely,
Paula Smolen
Board Member, Lowry Landfill Super Fund Citizen Advisory Group

ASSOCIATION OF HOME APPLIANCE MANUFACTURERS

1111 19th Street NW ➢ Suite 402 ➢ Washington, DC 20036
t 202.872.5955 f 202.872.9354 www.aham.org

WRITTEN STATEMENT

JOHN KEANE
MANAGER OF GOVERNMENT RELATIONS

ON BEHALF OF
THE ASSOCIATION OF HOME APPLIANCE MANUFACTURERS

COLORADO GENERAL ASSEMBLY
HOUSE ENERGY & ENVIRONMENT COMMITTEE

HB 22-1345
PFAS IN COOKWARE
OPPOSED

APRIL 14, 2022

Chairman Valdez, Vice Chair Hooton, and members of the Committee, the **Association of Home Appliance Manufacturers (AHAM) strongly urges the committee to oppose** HB 22-1345 which would ban cookware products from being sold in Colorado if the products contain PFAS substances.

AHAM members produce hundreds of millions of products each year. They design and build products at the highest levels of quality and safety. As such, they have demonstrated their commitment to strong internal safety design, monitoring, and evaluation/failure analysis systems. Together with industry design practices, test requirements, and redundant safety mechanisms PFAS chemicals play an important role in the safety profile of household appliances in their great resistance to high temperatures.

The legislation, among other things, would specifically prohibit the sale of cookware which contain PFAS. Among the issues with this legislation is the broad grouping of PFAS substances, which number in the thousands. With the entire class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom identified as a "PFAS substances," there are hundreds of chemicals within that class that can have very different properties.

The broad grouping of PFAS is also inappropriate as it ignores other government agencies' chemical-specific work. The Environmental Protection Agency is doing a more targeted assessment of PFAS under the Toxic Substances Control Act (TSCA). October 2021, EPA issued a notice of a proposed rule[1] to require certain entities that manufacture (including import) or have manufactured these chemical substances in any year since January 1, 2011, to electronically report information regarding PFAS uses, production volumes, disposal, exposures, and hazards. AHAM urges Colorado to allow these agencies to complete their work before acting.

Thank you for the opportunity to present this written statement to the hearing record. AHAM strongly urges that this Committee reconsider whether or not legislation is in the best interests of Colorado consumers. For future reference, my contact information is 202.872.5955 x328 or via electronic mail at jkeane@aham.org.

AHAM represents more than 150 member companies that manufacture 90% of the major, portable and floor care appliances shipped for sale in the U.S. Home appliances are the heart of the home, and AHAM members provide safe, innovative, sustainable and efficient products that enhance consumers' lives. In Colorado, the home appliance industry is a significant and critical segment of the economy. The total economic impact of the home appliance industry to Colorado is $1.7 billion, more than 10,000 direct and indirect jobs, $260 million in state tax revenue, and more than $610 million in wages. The home appliance industry, through its products and innovation, is essential to consumer lifestyle, health, safety and convenience. Home appliances also are a success story in terms of energy efficiency and environmental protection.

[1] https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/tsca-section-8a7-reporting-and-recordkeeping

April 14, 2022

SUPPORT HB 22-1345
Perfluoroakyl and Polyfluoroakyl Chemicals Consumer Protection Act

Delegate Alex Valdez
Chair, House Energy and Environment Committee
Colorado General Assembly
200 E.Colfax Ave.
Boulder, CO 80203

Dear Chair Valdez and Committee members:

Consumer Reports writes to strongly urge you to protect Colorado residents from exposure to a class of chemicals that threaten public health by supporting HB 22-1345 – An act banning intentional use of perfluoroalkyl and polyfluoroalkyl substances (PFAS) in rugs and carpets, cookware, cosmetics, fabrics treatment, food packaging, juvenile products, oil and gas products, textile furnishings and upholstered furniture. The bill would also require manufacturers of products containing intentionally added PFAS that are sold or distributed within Colorado to notify the state of the name of the product and the particular uses of the PFAS added to that product. There is an urgent need for the enactment of this bill.

Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization - with some 60,000 members in Colorado - that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to 6 million members across the U.S.

PFAS are a group of more than 9,000 chemicals that are very widespread and dangerous. Three characteristics of PFAS make them especially dangerous to humans. First, they are extremely persistent, resistant to breaking down naturally in the environment and remaining in people's bodies for years. This is why they have been described as "forever chemicals." Second, they are highly mobile, spreading quickly in the environment and prevalent throughout our environment. Finally, they can be toxic at very low doses—even at parts per trillion levels, they have been associated with a variety of severe health effects, including cancer and suppression of the immune system making vaccines less effective.

Because PFAS are so persistent, prevalent, and toxic, they must be regulated. Indeed, given their widespread use, PFAS are detectable in the blood of 97 percent of people in the United States.[1]

Some of the toxic effects associated with exposure to these chemicals include immunotoxicity, cancer, thyroid disease, birth defects, and decreased sperm quality.[2] They reduce the immune response to childhood vaccines and may increase the risk of infectious disease.[3] In addition, PFAS exposure has been directly linked to several underlying conditions that make people more vulnerable to severe symptoms of COVID-19, including obesity, asthma, kidney disease, and high cholesterol.[4] Compared to people with no underlying conditions, patients who have these conditions are six times as likely to be hospitalized with COVID-19 and 12 times as likely to die of the disease.[5]

PFAS also are referred to as "everywhere chemicals" because among the ways that consumers can be exposed to PFAS are through food, water, and consumer products that contain PFAS, and contaminated soil, dust and air. Disposal of PFAS can also result in PFAS in drinking water. CR testing of Colorado drinking water found total PFAS levels of 37.9 ppt in Highlands Ranch and 22.49 ppt in Conifer,[6] both above CR's recommended limit of total PFAS of 10 ppt.[7]

HB 22-13 would require manufacturers of products containing intentionally added PFAS that are sold or distributed within Colorado to notify the state of the name of the product and the particular uses of the PFAS added to that product. Such information is needed if the state is to take action against a broad range of consumer products with intentionally added PFAS. The bill also would allow products that do not contain intentionally added PFAS to be considered as "environmentally preferable products," defined as products that have a lesser or reduced adverse effect on human health and the environment when compared with competing products that serve the same purpose, that the state will preferentially purchase.

Some manufacturers add PFAS to food packaging to make it water- and grease-resistant, which can contaminate the food with which it comes into contact. Indeed, the Food and Drug Administration (FDA) last year reported in 2019 that it had detected PFAS in a variety of foods purchased around the country, including produce, meats and seafood.[8] People are exposed when they eat the contaminated food. In a more recent test, PFAS were detected in the packaging of foods sold by major retailers.[9] CR recently published a story involving testing of 118 food packaging products that found PFAS had been intentionally added to almost a third (37 products) of the products.[10] This prompted some retailers to announce a switch to safer alternatives, thereby demonstrating the availability of and feasibility of non-PFAS food packaging.

EPA's 2015 Significant New Use Rule for PFOA- and PFOA-related chemicals provided a definition for a category of a subgroup of the so-called long-chain PFAS chemicals, which are defined as having 8 or more carbon atoms. The idea was that these long-chain PFAS have more persistent in the environment and more likely to bioaccumulate than short-chain PFAS (having 7 or fewer carbon atoms), and so short-chain PFAS should be not persist in the body, so would not bioaccumulate and would consequently be less toxic.

These short-chain PFAS emerged as a replacement to long-chain PFAS in food packaging due to safety concerns in 2011.[11] Indeed, beginning in 2011, FDA started working with industry to get them to voluntarily remove long-chain PFAS as food contact materials. In 2016, FDA had revoked the regulation of the remaining uses of long-chain PFAS in food packaging (see 81 FR 5, January 4, 2016 and 81 FR 83672, November 22, 2016).[12] Again, the thinking was that the short-chain PFAS should be relatively safe for use as food contact substances.

However, in July 2020, FDA announced a voluntary phase out of use of certain short-chain PFAS (6:2 FTOH) for use as food contact substances after FDA scientists published their analyses of certain short-chain PFAS that showed that they did persist in rodent studies, such that "the data suggest the potential of 6:2 FTOH to also persist in humans from chronic dietary exposure. Further scientific studies are needed to better understand the potential human health risks from dietary exposure to food contact substances that contain 6:2 FTOH."[13]

In addition, an October 2021 EPA toxicity assessment of a short chain PFAS, GenX chemicals (a replacement for PFOA), show that GenX chemicals are more toxic than PFOA.[14] Thus, the short-chain PFAS are not necessarily less persistent in the human body and nor significantly less toxic than long-chain PFAS. In addition, a study published in 2020 looked at the Key Characteristics of Carcinogens framework for cancer hazard identification for 26 PFAS chemicals, including long-chain and short-chain PFAS, and found that all 26 chemicals had at least one key characteristic of a carcinogen.[15] These studies suggest that short-chain PFAS are not necessarily safer than the long-chain PFAS that they are replacing.

Since many PFAS are so resistant to break down, their presence in food ware means that they will leach out in the landfill and enter the environment. In addition, the increase in the consumption of take-out foods as a result of the pandemic has increased the risk of consumer exposure to PFAS.

There are alternatives to PFAS-treated food ware, and major retailers and restaurants including Panera Bread, Taco Bell, Chipotle, Whole Foods Market, Sweetgreen, Cava, Freshii,[16] McDonald's,[17] Trader Joe's,[18] Ahold Delhaize,[19] Rite Aid,[20] Amazon.com,[21] Wendy's,[22] Chick-Fil-A,[23] Burger King,[24] Popeye's,[25] and Tim Hortons[26] have already started the switch to these safer alternatives.

PFAS use in rugs, carpets, and upholstered furniture can result in PFAS being present on dust and in indoor airs, due to aging and PFAS evaporation.[27] In addition, the hand-to-mouth and close proximity to the floor of toddlers means that PFAS levels can be higher in toddlers compared to adults both in residential homes and child care environments.[28] Banning use of rugs and carpets treated with PFAS or aftercare stain and water treatments containing PFAS should help reduce exposure of infants and toddlers to PFAS.

Conclusion

The enactment of HB 22-1345 would represent significant progress toward protecting consumers from exposure to PFAS through consumer products, especially food packaging. Colorado could join California, Connecticut, Maine, Maryland, Minnesota, New York, Vermont and Washington in banning PFAS from food packaging materials. The bill also would protect against exposure to PFAS from rugs and carpets, cookware, cosmetics, fabrics treatment, juvenile products, oil and gas products, textile furnishings and upholstered furniture. We strongly urge you to support this legislation.

Sincerely,

Michael Hansen, Ph.D.
Senior Scientist
Consumer Reports
101 Truman Ave.
Yonkers, NY 10703

Brian Ronholm
Director, Food Policy
Consumer Report
101 Truman Ave.
Yonkers, NY 10703

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[1] Lewis RC, Johns LE, Meeker JD. 2015. Serum Biomarkers of Exposure to Perfluoroalkyl Substances in Relation to Serum Testosterone and Measures of Thyroid Function among Adults and Adolescents from NHANES 2011-2012. *Int J Environ Res Public Health*. 12(6): 6098-6114. At: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4483690/pdf/ijerph-12-06098.pdf

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[10] Loria, K. 2022. Dangerous PFAS Chemicals are in Your Food Packaging. Consumer Reports. June 2022 issue. At: https://www.consumerreports.org/pfas-food-packaging/dangerous-pfas-chemicals-are-in-your-food-packaging-a3786252074/

[11] https://www.fda.gov/food/chemicals/authorized-uses-pfas-food-contact-applications

[12] *Id.*

[13] https://www.fda.gov/news-events/press-announcements/fda-announces-voluntary-agreement-manufacturers-phase-out-certain-short-chain-pfas-used-food

[14] https://www.epa.gov/system/files/documents/2021-10/genx-final-tox-assessment-general_factsheet-2021.pdf

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[16] https://toxicfreefuture.org/pfas-free-paper-food-packaging-alternatives-a-resource-for-restaurants-and-retailers/

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[20] https://www.riteaid.com/corporate/chemical-policy

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[22] Pg. 34 in https://www.wendys.com/sites/default/files/2021-04/Wendys-2020-CSR-0419_FINAL.pdf

[23] https://www.chick-fil-a.com/customer-support/our-food/packaging/does-chick-fil-as-packaging-contain-pfas

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[26] *Id.*

[27] Wu Y, Romanak K, Bruton T, Blum A and M Venier. 2020. Per- and polyfluoroalkyl substances in paired dust and carpets from childcare centers. *Chemosphere* 251: doi.org/10.1016/j.chemosphere.2020.126771

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LEAGUE OF WOMEN VOTERS® OF COLORADO

April 11, 2022

House Energy & Environment Committee
Colorado General Assembly
200 E. Colfax Avenue
Denver, CO 80203

Re: HB22-1345 Per- and Polyfluoroalkyl chemicals consumer protection act.

Dear Members of the House Energy & Environment Committee:

My name is Ann Sutton, living in Westminster CO. This testimony represents the position of the League of Women Voters of Colorado (LWVCO).

The League of Women Voters of Colorado Supports this bill that represents the interface of protecting public health and environmental health, addressing a class of chemicals that has been added to a wide variety of consumer and industrial products because of useful characteristics and enhancement of products' intended functions. Decades later, we are assessing the un-intended consequences of health effects and environmental contamination by chemicals that are remarkably long-lasting.

From production to disposal, PFAS can be released to the environment; because of the sheer number of kinds of PFAS, environmental discovery and characterization studies struggle to keep pace. Natural transformation of PFAS includes reaction products, resulting in deposition sites such as landfills serving as time-delayed sources. [Evich, MG et al. Science 375: 512; 4 Feb 2022.] https://www.science.org/doi/10.1126/science.abg9065

Consumer Reports (CR) tested multiple samples of food packaging products from major restaurant and grocery chains for total organic fluorine as a marker for PFAS. PFAS can enter food from the immediate packaging and can enter soil and water from waste landfills. https://www.consumerreports.org/media-room/press-releases/2022/03/consumer-reports-finds-dangerous-pfas-chemicals-linked-to-serious-health-problems-widespread-in-fast-food-packaging-tested/

Studies such as these highlight the ongoing hazard of PFAS in our waste stream.

The League supports policies to ensure safe treatment, transportation, storage, and disposal of solid and hazardous wastes to protect public health and air, water, and land resources. Our approach to environmental protection aims to prevent ecological degradation and to reduce and control pollutants. The federal government should have the major role in setting standards for environmental protection, but other levels of government should have the right to set more stringent standards.

To date, managing the risk of PFAS has focused primarily on one chemical at a time, or a small group of PFAS. This approach has not been effective at controlling widespread exposure to this large group of chemicals with known and potential hazards. It is not possible to thoroughly assess every individual PFAS for their full range of effects in a reasonable time frame. Government policy makers have already

begun limiting PFAS through bans in certain product categories. [Kwiatkowski, CF et al. *Environ. Sci. Technol. Lett.* 7: 532–543; 30, Jun 2020.] https://pubs.acs.org/doi/pdf/10.1021/acs.estlett.0c00255

At the federal level, the EPA is responsible for assuring clean air, land, and water. Until very recently, EPA action on PFAS contamination has been slow and limited, primarily using the *Safe Drinking Water Act* and addressing only selected PFAS. In June 2021, rulemaking was begun for the "first targeted effort under the *Toxic Substances Control Act (TSCA)* to collect information" from manufacturers on the use of PFAS. In July 2021, the agency made the first ever reporting on PFAS in the *Toxics Release Inventory* beginning with reports for about 170 chemical forms. Although **PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2024** was published in October 2021, EPA appears to be addressing the problems through primarily a case-by-case process.

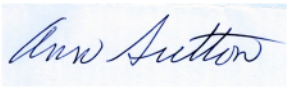
As a former federal-level regulator, I understand the detailed and drawn-out timeframe needed for rulemaking and approvals. In the last two years I have been proud to see my former agency shift into overdrive and use creative application of existing law and regulations to safely approve preventions and treatments for Covid-19 in responding to a public health emergency. EPA should do the same in regulating PFAS.

The time is past for "preventing PFAS from entering the environment in the first place—a foundational step to reducing the exposure and potential risks of future PFAS contamination." [https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024

"Without effective risk management action around the entire class of PFAS, these chemicals will continue to accumulate and cause harm to human health and ecosystems for generations to come." [Kwiatkowski, CF et al.; reference above]

We thank the committee for their careful review and consideration.

Sincerely,



Ann Sutton Volunteer Lobbyist
League of Women Voters of Colorado
1410 Grant Street, Suite B-204
Denver, CO 80203

colorado school of public health

UNIVERSITY OF COLORADO
COLORADO STATE UNIVERSITY
UNIVERSITY OF NORTHERN COLORADO

Department of Environmental and Occupational Health
Campus Box B119
13001 E. 17th Place
Aurora, CO 80045
John.Adgate@cuanschutz.edu

April 6, 2022

Via Email/Upload

RE: HB-1345 Perfluoroalkyl and Polyfluoroalkyl Chemicals (PFAS)

Dear Sponsors of HB-1345 (Reps Cutter and Bradfield) and Members of the Colorado House Energy & Environment Committee:

I am writing in full support of the above referenced bill as an expert on PFAS Exposure and Health Effects research and as a concerned citizen.

I have been Professor of the Department of Environmental and Occupational Health at the Colorado School of Public Health since 2009; I was Department Chair from 2009 until this past July. Before coming to the University of Colorado I was a faculty member at the University of Minnesota School of Public Health for 13 years.

My research focus is on exposure science, environmental epidemiology, and health effects associated with air and water pollution. Most relevant to this bill I have led or co-led three federally funded studies on PFAS health effect over the past decade. Currently, I am co-Principal Investigator of the Centers for Disease Control/Agency for Toxic Substances and Disease Registry (CDC/ATSDR) funded Multi Site Study, which is exploring the relationship between PFAS exposure and health effects in children and adults. The overall goal of the study is to recruit 6000 adults and 2400 children from exposed communities around the US, including up to 1000 adults and 300 children at our study site in El Paso County (see: www.CO-SCOPE.org).

The water supplies in the Fountain Valley have been contaminated by use of PFAS containing fire fighting foams, and one of our studies (Barton et al 2020[i]) documented that residents of the affected communities have had very high serum levels of PFAS. We found, for example, that residents from these communities *had some of the highest levels of PFHxS seen in humans anywhere in the world*. PFHxS is a PFAS that is principally found in fire-fighting foams, so their use has resulted in very high exposure due to consumption of contaminated drinking water in Fountain Valley communities.

As a researcher and expert on PFAS, which has clear deleterious effects on liver and immune function and likely increases the risk of cancer, it is important to get these persistent substances removed from consumer and commercial products. Since they do not break down in the environment or in people – hence they are often referred to as "forever chemicals" due to their characteristic carbon-fluorine bonds that are key part of their chemical structure – it is important that Colorado acts to remove them from use where and whenever possible.

It is my judgment that there are or will be viable alternatives for all or nearly all PFAS, and that any remaining "essential" uses should be carefully evaluated and "sunsetted" as soon as feasible. It should be our goal to eventually remove all PFAS uses, much in the way we've

worked to reduce human and ecosystem exposure other persistent and bio-accumulative substances (for example DDT, PCBs, Chlorinated pesticides, and others).

I see HB-1345 as an important first step toward removing PFAS from our water, food, and environment. I regret that I cannot testify in person on this matter, but hope that this letter is given careful consideration as you deliberate on the merits of this important bill.

Sincerely,

John L. Adgate, PhD, MSPH
Professor
Department of Environmental and Occupational Health
Co-Principal Investigator, CO-SCOPE (www.CO-SCOPE.org)
Colorado School of Public Health
Anschutz Health Sciences Campus
University of Colorado
John.Adgate@cuanschutz.edu

1. [i] Barton, KE, AP Starling, CP Higgins, C McDonough, AM Calafat, JL Adgate. 2019 Sociodemographic and behavioral predictors of serum concentrations of per- and polyfluoroalkyl substances in a community highly exposed to aqueous film-forming foam contaminants in drinking water. Int J Hyg Environ Health 2020 Jan;223(1):256-266. doi: 10.1016/j.ijheh.2019.07.012. Epub 2019 Aug 20. PMID: 31444118.