

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB1712

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Hudson

3. Committee: Agriculture, Chesapeake and Natural Resources

4. Title: Food packaging; PFAS chemicals; penalty.

5. Summary: Prohibits the sale, offer for sale, or distribution for sale or use of any food packaging containing perfluoroalkyl and polyfluoroalkyl substances (PFAS chemicals), defined in the bill as a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom. The penalty for violating the prohibition is a Class 2 misdemeanor.

6. Budget Amendment Necessary: Yes, to Item 103 of HB30/SB30.

7. Fiscal Impact Estimates: Preliminary.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2021	\$77,018	1	General Fund
2022	\$77,018	1	General Fund
2023	\$77,018	1	General Fund
2024	\$77,018	1	General Fund
2025	\$77,018	1	General Fund

7b. Revenue Impact: N/A.

8. Fiscal Implications: The Department of Agriculture and Consumer Services (VDACS) anticipates requiring additional resources to implement this bill. Currently, agency's Office of Dairy and Foods, which focuses primarily on the prevention of foodborne illnesses and death from contaminated and adulterated food and milk products, does not regulate food containers and packages unless those packages or containers are misbranded.

In order to implement the provisions of the bill, the department will need to determine which manufacturers or distributors exist within or distribute PFAS packaging to the Commonwealth and whether that packaging is intended for use as "food packaging." Ongoing monitoring will need to be conducted as changes occur within the food product packaging industry (e.g., new manufacturing plants, etc.). Regular communication will need to be initiated and maintained with food packaging manufacturers, both in Virginia as well as nationally, to convey to those entities that any and all PFAS food packaging will no longer be allowed in Virginia. Regular scientific related research will be required to stay informed of

any PFAS related developments and potential related derivatives to determine the impact to the Commonwealth.

VDACS anticipates that a regulatory and enforcement program will need to be established to enforce and ensure compliance with the PFAS free requirements and that resources will be required to address those components. Regulations may need to be developed in order to provide the specifics needed to enforce this legislation. Entities who violate the provisions of this bill are subject to a class 2 misdemeanor.

Anyone convicted of a Class 2 misdemeanor is subject to a sentence of up to six months in jail. There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

There may be complaints from consumers who believe that the packaging used for the food products that they have purchased contains PFAS. These complaints will need to be investigated and addressed and will require additional staff resources. As a part of those investigations, a PFAS testing/sampling program will need to be established to determine whether PFAS is present in the food product packaging.

As such, VDACS anticipates requiring one FTE along with salary and benefits totaling \$67,018 will be necessary to support a technical specialist who will carry out the duties, responsibilities and regulatory components necessary to ensure, at a minimum level, a viable Virginia PFAS-free food product packaging program. Funding of \$10,000 will be necessary for equipment and initial and ongoing training requirements. FY 2021 will be devoted to research, networking, and the development of the regulatory components of the program. Subsequent to FY 2021, additional funding may be needed to develop and conduct a testing/sampling program to ensure compliance with the requirements of this legislation.

9. Specific Agency or Political Subdivisions Affected: Department of Agriculture and Consumer Services; Department of Corrections; local and regional jails.

10. Technical Amendment Necessary: No.

11. Other Comments: None.