



June 3, 2024

PA House Environmental Resources and Energy Committee  
Public Hearing, House Bill 2238

**RE: Oppose House Bill 2238**

Dear Chairman Greg Vitali, Chairman Martin Causer, and Members of the House Environmental Resources and Energy Committee,

Thank you for the opportunity to provide comments on HB 2238, a bill that would prohibit the use of perfluoroalkyl and polyfluoroalkyl substances or "PFAS" and give authority to the Department of Environmental Protection (DEP) to regulate its use.

The American Chemistry Council (ACC) is a national trade association representing chemicals and plastics manufacturers in the United States, including member companies in the state of Pennsylvania. Our members are committed to the safety of their products and to the protection of public health.

**ACC urges the consideration of these key points and reasons to oppose HB 2238:**

- Only the State of Maine has passed legislation to ban PFAS in certain consumer products and to require reporting of products with intentionally added PFAS.
- **Other states have considered --and rejected-- legislation requiring reporting of products with intentionally added PFAS. California Governor Newsom in September 2022 vetoed a bill (AB 2247) similar to the raised Connecticut bill.** The veto message explained that CA AB 2247 may be "premature" because the US EPA is currently undergoing rulemaking to require reporting of PFAS and that the bill is estimated to "cost millions of dollars" that would result in higher taxes/fees to pay for oversight resources.
- For the second year in a row, Maine has been trying to fix problems with the original law passed in July 2021 (Public Law c. 477). Pennsylvania should carefully consider some of the challenges Maine has encountered before moving forward with a PFAS product ban and reporting law.
- Under Maine Public Law c. 477, companies were required to report products with intentionally added PFAS on January 1, 2023. The law also phased out several products with PFAS and states that unless PFAS is deemed a currently unavoidable use, all products with PFAS are banned as of January 1, 2030.

**Since enactment of the original law two years ago, Maine has encountered several problems:**

- Over 500 stakeholders attended the first Maine Department of Environmental Protection (DEP) webinar on the original law to ask questions and express concerns about compliance.
- A compressed regulatory timeframe resulted in companies being required to report products *before* the draft rule was even posted.
- To date, Maine DEP has issued more than 2,500 extensions to companies for reporting products with PFAS due to a variety of reasons:
  - No operational database for manufacturers to submit product information
  - Limited lab capacity across the U.S.



- Complicated supply chains for manufacturers to determine if PFAS is included and in what amount to test products for PFAS
- No protections for confidential business information submitted

**Outcome:**

- Maine DEP granted over 2500 companies an extension to report.
- The sponsor of the original PFAS reporting and ban bill stated, “We always don’t get it right the first time and that is why we have an amendment process.”

Maine continues to face challenges with implementation and is considering reforms to the original law, for the second year in a row.

**Although ACC supports the strong, science-based regulation of chemicals, including PFAS substances, we respectfully oppose HB 2238.** Our industry has worked proactively and played a leadership role in helping manage specific PFAS chemistries that are the subject of this bill.

Our industry partnered with US EPA on its [PFOA Stewardship Program](#), investing over \$700 million in research and development. This included a commitment to cease the manufacture and use of PFOA and PFOA-related chemicals and also an agreement for all new PFAS chemistries to undergo enhanced regulatory review before being permitted on the market. However, HB 2238 that would ban the use of PFAS in certain consumer products and gives the PA Department of Environmental Protection (PADEP) the authority to regulate PFAS is overly broad, lacks scientific basis and will have significant unintended consequences for Pennsylvania.

**ACC urges this Committee to consider these additional points and reasons to oppose HB 2238:**

**PFAS is a broad family of chemistry that provides important benefits and enables a diverse range of products and sectors.**

PFAS is included in electronics, semiconductors, automotive, aerospace, alternative energy and building and construction. They also have important supporting uses in other critical sectors like pharmaceuticals and agriculture.

**However, all PFAS are not the same. It is neither scientifically accurate nor appropriate to group all PFAS chemistries together.** This broad universe of chemistries includes liquids, gases and solids. In no other area of science do we treat these the same, and that should be no different here.

- PFAS has been the subject of a lot of research and discussion, and more specifically, a lot of work has been done to assess individual PFAS compounds and to consider appropriate sub-groupings within this broad universe. Grouping these substances together as in HB 2238 is inconsistent with the views of key policy organizations including the National Academies of Science, Engineering, and Medicine (NASEM), the Environmental Council of the States (ECOS), and various states that have looked at this specifically. See [PFAS Grouping: An Emerging Scientific Consensus](#).
- The focus in this area to date has largely been on two specific PFAS substances – PFOS and PFOA. These substances are no longer produced by our members. Other PFAS substances should not be confused with these two specific PFAS.
- There is a scientific basis for not treating all PFAS the same. For these reasons, different PFAS require different regulatory approaches. Given these differences, efforts to regulate all PFAS together will not be effective and will not address current regulatory priorities.

**HB 2238 is overly broad; non-scientific approaches to PFAS will both undermine efforts to implement effective regulatory policies for PFAS and will have far reaching negative consequences on the economy.**



- Today's PFAS are essential to modern life and an important enabling technology. The strong fluorine-carbon bond allows PFAS chemistries to provide 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 industry and consumers.
- PFAS play a vital role in everything from designing automobiles with lower emissions and improved safety, reliability, and fuel-efficiency to manufacturing semiconductors, solar panels, and high-performance electronics. Many other industries depend on high-performance PFAS, including aerospace, alternative energy (solar, wind), healthcare, building and construction, electronics, chemicals and pharmaceuticals, oil and gas, and outdoor apparel and equipment, just to name a few.
- This legislation would undermine effective product design, and, in some cases, even overall product safety and efficacy for a broad range of products including applications that are important for public safety and public health.
- This bill could also adversely impact critical 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 legislation runs counter to and conflicts with national chemical and product safety regulations, including products approved by the Food and Drug Administration for food and medical applications.**

- Even if a material is approved by the FDA for a medical device or for medical packaging that has been designed to meet specific, federal safety standards, those uses could be restricted under this legislation if PADEP identifies that product as a priority for restriction, phase-out and ban.
- PADEP will be overwhelmed by the thousands of important uses that will need to be granted an exemption or otherwise banned. And as stated before, such an approach will be a drain on the DEP's resources, preventing it from focusing on the real policy priorities.

**Finally, this legislation would foster an unworkable patchwork of state regulation with significant implications for Pennsylvania citizens, businesses and public entities, effectively isolating Pennsylvania from the rest of the country.**

**For the reasons noted in this letter, we respectfully request that the Committee does not move forward with HB 2238.**

For additional information or questions, please feel free to contact me at [shawn\\_swearingen@americanchemistry.com](mailto:shawn_swearingen@americanchemistry.com).

Thank you.

Sincerely,

Shawn Swearingen  
Director  
American Chemistry Council

