

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE ENERGY, ENVIRONMENT AND NATURAL RESOURCES  
COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 212

**57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE PER- AND POLY-  
FLUOROALKYL SUBSTANCES PROTECTION ACT; PROHIBITING CERTAIN  
PRODUCTS THAT CONTAIN AN INTENTIONALLY ADDED PER- OR POLY-  
FLUOROALKYL SUBSTANCE; AUTHORIZING THE ENVIRONMENTAL  
IMPROVEMENT BOARD TO ADOPT RULES PROHIBITING CERTAIN PRODUCTS  
THAT CONTAIN AN INTENTIONALLY ADDED PER- OR POLY-FLUOROALKYL  
SUBSTANCE; REQUIRING DISCLOSURE OF INFORMATION AND TESTING OF  
PRODUCTS SOLD, OFFERED FOR SALE OR DISTRIBUTED FOR SALE IN THIS  
STATE THAT CONTAIN AN INTENTIONALLY ADDED PER- OR POLY-  
FLUOROALKYL SUBSTANCE; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
cited as the "Per- and Poly-Fluoroalkyl Substances Protection  
Act".

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1           SECTION 2.   ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the  
2 Per- and Poly-Fluoroalkyl Substances Protection Act:

3           A. "adult mattress" means a mattress other than a  
4 crib or toddler mattress;

5           B. "board" means the environmental improvement  
6 board;

7           C. "carpet or rug" means a fabric marketed or  
8 intended for use as a floor covering;

9           D. "chemical" means a substance with a distinct  
10 molecular composition or a group of structurally related  
11 substances and includes the breakdown of products of the  
12 substance or substances that form through decomposition,  
13 degradation or metabolism;

14           E. "cleaning product" means a finished product used  
15 for general cleaning purposes, including:

16                   (1) a polish or floor maintenance product;

17                   (2) an air care product labeled for the  
18 intended use of enhancing or conditioning the indoor  
19 environment by eliminating unpleasant odors or freshening the  
20 air; and

21                   (3) an automotive maintenance product labeled  
22 for the intended use of maintaining the appearance of a motor  
23 vehicle, but does not include automotive paint or paint repair  
24 products;

25           F. "consumer product" means a tangible personal

1 property that is distributed in commerce and normally used for  
2 personal, family or household use, including product categories  
3 that are normally used in households but designed for or sold  
4 to businesses, such as commercial carpet or floor waxes;

5 G. "cookware" means durable houseware items used to  
6 prepare, dispense or store food, foodstuffs or beverages;

7 H. "cosmetic" means a product or product component,  
8 other than soap, intended to be applied to the human body for  
9 cleansing, beautifying or promoting attractiveness;

10 I. "currently unavoidable use" means a use of a  
11 per- or poly-fluoroalkyl substance that the board has  
12 determined by rule to be essential for health, safety or the  
13 functioning of society and for which alternatives are not  
14 reasonably available;

15 J. "department" means the department of  
16 environment;

17 K. "fabric treatment" means a substance applied to  
18 fabric for stain, grease or water resistance or flame  
19 retardance;

20 L. "feminine hygiene product" means a disposable or  
21 reusable product to collect menstruation and vaginal discharge,  
22 including tampons, pads, sponges, menstruation underwear,  
23 discs, applicators and menstruation cups;

24 M. "firefighting foam" means a class B firefighting  
25 foam intended for use to control or extinguish a fire;

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1           N. "food packaging" means a container, unit  
2 package, intermediate package or shipping container applied to  
3 or providing a means to market, protect, handle, deliver,  
4 serve, contain or store a food or beverage, including an  
5 individual assembled part of a food package;

6           O. "intentionally added" means a per- or poly-  
7 fluoroalkyl substance deliberately added or used during the  
8 manufacture of a product where the continued presence, at any  
9 level or concentration, of the per- or poly-fluoroalkyl  
10 substance is desired or expected in the final product or one of  
11 the product's components;

12           P. "juvenile product" means a product designed or  
13 marketed for use by children under twelve years old, including  
14 children's car seats, clothing and toys, but does not include  
15 an electronic product, including:

16                   (1) personal computers and any associated  
17 equipment;

18                   (2) audio and video equipment;

19                   (3) calculators;

20                   (4) wireless phones;

21                   (5) gaming consoles;

22                   (6) handheld devices incorporating a video  
23 screen; and

24                   (7) any associated peripheral device, such as  
25 a mouse, keyboard, power supply unit or power cord;

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1 Q. "manufacturer" means:

2 (1) a person, a firm, an association, a  
3 partnership, a corporation, an organization, a combination or a  
4 joint venture that creates, produces or assembles a product or  
5 whose brand name is affixed to a product; or

6 (2) in the case of a product imported into the  
7 United States, an importer or first domestic distributor of the  
8 product; provided that the person that created, produced or  
9 assembled the product or whose brand name is affixed to the  
10 product does not have an office or employees in the United  
11 States;

12 R. "medical device" means an instrument, apparatus,  
13 an implement, a machine, an implant, an in vitro reagent or  
14 other similar or related device, including any component or  
15 accessory, that is a product regulated as a drug or medical  
16 device by the United States food and drug administration under  
17 the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 et  
18 seq.:

19 (1) recognized in an official compendium;

20 (2) intended for use in the diagnosis of  
21 disease or other conditions, or in the cure, mitigation,  
22 treatment or prevention of disease, in a human or an animal; or

23 (3) intended to affect the structure or  
24 function of the body of a human or an animal and that does not  
25 achieve its principal intended purposes through chemical action

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1 within or on the body of a human or an animal and that is not  
2 dependent on being metabolized for achievement of its principal  
3 intended purpose;

4 S. "per- or poly-fluoroalkyl substance" means a  
5 substance in a class of fluorinated organic chemicals  
6 containing at least one fully fluorinated carbon atom that is  
7 solid or liquid at standard temperature and pressure;

8 T. "product" means an item created, produced,  
9 assembled, packaged or otherwise prepared for sale to a  
10 consumer, including a product component sold or distributed for  
11 personal, residential, commercial or industrial use or for use  
12 in making a product;

13 U. "ski wax" means a lubricant applied to the  
14 bottom of a snow runner, including a ski or snowboard, to  
15 improve grip or glide properties and includes associated tuning  
16 products;

17 V. "textile" means an item made in whole or in part  
18 from a natural or synthetic fiber, yarn or fabric, including  
19 leather, cotton, silk, jute, hemp, wool, viscose, nylon or  
20 polyester;

21 W. "textile furnishings" means a textile product  
22 made in whole or part from a natural or synthetic fiber, yarn  
23 or fabric that is used as furniture or a decorative accessory;  
24 and

25 X. "upholstered furniture" means furniture that is

1 wholly or partially stuffed with a filling material.

2           SECTION 3. [NEW MATERIAL] PROHIBITION ON PRODUCTS  
3 CONTAINING PER- OR POLY-FLUOROALKYL SUBSTANCES--EXEMPTIONS.--

4           A. Subsections B through G of this section do not  
5 apply to:

6                       (1) a product for which federal law governs  
7 the presence of a per- or poly-fluoroalkyl substance in the  
8 product in a manner that preempts state authority;

9                       (2) used products offered for sale or resale;

10                      (3) medical devices or drugs and the packaging  
11 of the medical devices or drugs that are regulated by the  
12 United States food and drug administration, including  
13 prosthetic and orthotic devices;

14                      (4) cooling, heating, ventilation, air  
15 conditioning or refrigeration equipment that contains  
16 intentionally added per- or poly-fluoroalkyl substances or  
17 refrigerants listed as acceptable, acceptable subject to use  
18 conditions or acceptable to narrowed use limits by the United  
19 States environmental protection agency pursuant to the  
20 significant new alternatives policy program, 40 Code of Federal  
21 Regulations, Part 82, Subpart G and sold, offered for sale or  
22 distributed for sale for the use for which the refrigerant is  
23 listed pursuant to that program;

24                      (5) a veterinary product intended for use in  
25 or on animals, including diagnostic equipment or test kits and

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1 the veterinary product's components and any product that is a  
2 veterinary medical device, drug, biologic or parasiticide or  
3 that is otherwise used in a veterinary medical setting or in  
4 veterinary medical applications that are regulated by or under  
5 the jurisdiction of:

6 (a) the United States food and drug  
7 administration;

8 (b) the United States department of  
9 agriculture pursuant to the federal Virus-Serum-Toxin Act; or

10 (c) the United States environmental  
11 protection agency pursuant to the Federal Insecticide,  
12 Fungicide, and Rodenticide Act, except that any such products  
13 approved by the United States environmental protection agency  
14 pursuant to that law for aerial and land application are not  
15 exempt from this section;

16 (6) a product developed or manufactured for  
17 the purpose of public health or environmental or water quality  
18 testing;

19 (7) a motor vehicle or motor vehicle equipment  
20 regulated under a federal motor vehicle safety standard, as  
21 defined in 49 United States Code, Section 30102(a)(10), except  
22 that the exemption under this paragraph does not apply to any  
23 textile article or refrigerant that is included in or as a  
24 component part of such products;

25 (8) any other motor vehicle, including an

1 off-highway vehicle or a specialty motor vehicle, such as an  
2 all-terrain vehicle, a side by-side vehicle, farm equipment or  
3 a personal assistive mobility device;

4 (9) a watercraft, an aircraft, a lighter-than-  
5 air aircraft or a seaplane;

6 (10) a semiconductor, including semiconductors  
7 incorporated in electronic equipment and materials used in the  
8 manufacture of semiconductors;

9 (11) non-consumer electronics and non-consumer  
10 laboratory equipment not ordinarily used for personal, family  
11 or household purposes;

12 (12) a product that contains intentionally  
13 added per- or poly-fluoroalkyl substances with uses that are  
14 currently listed as acceptable, acceptable subject to use  
15 conditions or acceptable subject to narrowed use limits in the  
16 United States environmental protection agency's rules under the  
17 significant new alternatives policy program; provided that the  
18 product contains per- or poly-fluoroalkyl substances that are  
19 being used as substitutes for ozone-depleting substances under  
20 the conditions specified in the rules;

21 (13) a product used for the generation,  
22 distribution or storage of electricity;

23 (14) equipment directly used in the  
24 manufacture or development of the products described in  
25 Paragraphs (1) through (13) of this subsection;

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1 (15) a product for which the board has adopted  
2 a rule providing that the use of the per- or poly-fluoroalkyl  
3 substance in that product is a currently unavoidable use; or

4 (16) any consumer product that contains  
5 intentionally added per- or poly-fluoroalkyl substances that  
6 are approved for sale by the board pursuant to the following:

7 (a) the board may adopt rules to create,  
8 enforce or terminate a per- and poly-fluoroalkyl substance  
9 stewardship program for products exempted in this subsection.  
10 In establishing a stewardship program, the board may consider  
11 statewide collection systems that provide access to the public  
12 for the drop-off of consumer products containing an  
13 intentionally added per- or poly-fluoroalkyl substance at no  
14 cost to the consumer; and

15 (b) if the board adopts rules to create  
16 a per- and poly-fluoroalkyl substance stewardship program, the  
17 board shall adopt rules necessary for the implementation and  
18 operation of the program, including rules to establish what  
19 criteria manufacturers, other entities or organizations must  
20 meet to qualify for the program.

21 B. Beginning January 1, 2027, the state or a person  
22 on behalf of the state shall not purchase a product that  
23 contains an intentionally added per- or poly-fluoroalkyl  
24 substance.

25 C. Beginning January 1, 2027, a manufacturer shall

1 not sell, offer for sale or distribute for sale in this state,  
2 directly or indirectly or through intermediaries, the following  
3 products if that product contains an intentionally added per-  
4 or poly-fluoroalkyl substance:

- 5 (1) cookware;
- 6 (2) food packaging;
- 7 (3) dental floss;
- 8 (4) juvenile products; and
- 9 (5) firefighting foam.

10 D. Beginning January 1, 2028, a manufacturer shall  
11 not sell, offer for sale or distribute for sale in this state,  
12 directly or indirectly or through intermediaries, the following  
13 products if that product contains an intentionally added per-  
14 or poly-fluoroalkyl substance:

- 15 (1) carpets or rugs;
- 16 (2) cleaning products;
- 17 (3) cosmetics;
- 18 (4) fabric treatments;
- 19 (5) feminine hygiene products;
- 20 (6) textiles;
- 21 (7) textile furnishings;
- 22 (8) ski wax; and
- 23 (9) upholstered furniture.

24 E. The board may adopt rules to prohibit consumer  
25 products that contain an intentionally added per- or poly-

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1 fluoroalkyl substance by category or use that a manufacturer  
2 may not sell, offer for sale or distribute for sale in this  
3 state, directly or indirectly or through intermediaries, upon a  
4 finding that a prohibition on the product is necessary to  
5 protect human health or the environment. The board shall set  
6 effective dates for a prohibition established by rule pursuant  
7 to this subsection; provided that the board shall not set an  
8 effective date for the prohibition of a product less than six  
9 months after the adoption of the final rule to prohibit the  
10 product or earlier than January 1, 2027. The board shall  
11 prioritize the prohibition of consumer products containing an  
12 intentionally added per- or poly-fluoroalkyl substance that are  
13 most likely to harm human health or contaminate the  
14 environment.

15 F. Beginning January 1, 2029, a manufacturer shall  
16 not sell, offer for sale or distribute for sale in this state,  
17 directly or indirectly or through intermediaries, a product  
18 containing an intentionally added per- or poly-fluoroalkyl  
19 substance, unless the board has adopted a rule providing that  
20 the use of the per- or poly-fluoroalkyl substance in that  
21 product is a currently unavoidable use. The board may adopt  
22 rules to designate that the use of a per- or poly-fluoroalkyl  
23 substance in a certain product is a currently unavoidable use;  
24 provided that the use of a per- or poly-fluoroalkyl substance  
25 in a product listed in Subsection C or D of this section is

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1 prohibited and shall not be designated as a currently  
2 unavoidable use.

3 G. The department shall consult with the New Mexico  
4 department of agriculture before petitioning the board pursuant  
5 to Subsection E or F of this section with respect to a  
6 pesticide, fertilizer, agricultural liming material or plant or  
7 soil amendment that contains an intentionally added per- or  
8 poly-fluoroalkyl substance. However, if a pesticide is  
9 regulated by or under the jurisdiction of the Federal  
10 Insecticide, Fungicide, and Rodenticide Act, then Subsections B  
11 through F of this section do not apply to the pesticide.

12 SECTION 4. [NEW MATERIAL] RULES.--

13 A. The board shall adopt rules to:

14 (1) create a series of ranges for the amount  
15 of a per- or poly-fluoroalkyl substance in a product that  
16 contains an intentionally added per- or poly-fluoroalkyl  
17 substance for reporting purposes unless exempted in Subsection  
18 A of Section 3 of the Per- and Poly-Fluoroalkyl Substances  
19 Protection Act;

20 (2) identify currently unavoidable uses of a  
21 per- or poly-fluoroalkyl substance that are essential for  
22 health, safety or the functioning of society and for which  
23 alternatives are not reasonably available unless exempted in  
24 Subsection A of Section 3 of the Per- and Poly-Fluoroalkyl  
25 Substances Protection Act; and

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- 1 (3) as pertaining to firefighting foam:  
2 (a) require a periodic inventory of  
3 firefighting foam quantifies stored or used in New Mexico;  
4 (b) require the use of firefighting foam  
5 for emergency purposes only; and  
6 (c) require the cleanup of discarded  
7 firefighting foam pursuant to the Hazardous Waste Act.

8 For purposes of this subsection, "emergency purposes" does  
9 not include training or the use of firefighting foam in fire  
10 suppression systems.

11 B. The board may:

12 (1) adopt other rules that the board deems  
13 necessary to carry out the provisions of the Per- and Poly-  
14 Fluoroalkyl Substances Protection Act, including requiring the  
15 labeling of products in English and Spanish; and

16 (2) consider determinations made by other  
17 states with respect to currently unavoidable uses for products  
18 containing intentionally added per- or poly-fluoroalkyl  
19 substances.

20 SECTION 5. [NEW MATERIAL] RULES--INFORMATION REQUIRED--  
21 EXTENSIONS--WAIVERS.--

22 A. The board shall adopt rules that enumerate the  
23 information required of a manufacturer and necessary for the  
24 department to implement the Per- and Poly-Fluoroalkyl  
25 Substances Protection Act. The information required shall

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1 include:

2 (1) a brief description of the product,  
3 including a universal product code, stock keeping unit or other  
4 numeric code assigned to the product;

5 (2) the purpose for which a per- or poly-  
6 fluoroalkyl substance is used in the product;

7 (3) the amount of each per- or poly-  
8 fluoroalkyl substance in the product, identified by its  
9 chemical abstracts service registry number and reported as an  
10 exact quantity determined using commercially available  
11 analytical methods or as falling within a range approved for  
12 reporting purposes by the department;

13 (4) the name and address of the manufacturer  
14 and the name, address and phone number of a contact person for  
15 the manufacturer; and

16 (5) any additional information requested by  
17 the department as necessary.

18 B. On or before January 1, 2027, a manufacturer of  
19 a product sold, offered for sale or distributed for sale in the  
20 state, directly or indirectly or through intermediaries, that  
21 contains an intentionally added per- or poly-fluoroalkyl  
22 substance shall submit to the department the information  
23 required by Subsection A of this section or a rule adopted  
24 pursuant to that subsection.

25 C. Prior to January 1, 2028, a manufacturer shall

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1 not sell, offer for sale or distribute for sale in this state,  
2 directly or indirectly or through intermediaries, a product if  
3 testing requested by the department demonstrates that the  
4 product contains an intentionally added per- or poly-  
5 fluoroalkyl substance and the manufacturer has failed to  
6 provide the department the information required by Subsection A  
7 of this section or a rule adopted pursuant to that subsection.

8 D. Prior to January 1, 2028, a manufacturer shall  
9 not sell, offer for sale or distribute for sale in this state,  
10 directly or indirectly or through intermediaries, a product  
11 that contains an intentionally added per- or poly-fluoroalkyl  
12 substance unless the manufacturer has submitted to the  
13 department the information required by Subsection A of this  
14 section or a rule adopted pursuant to that subsection. A  
15 product reported pursuant to this subsection containing an  
16 intentionally added per- or poly-fluoroalkyl substance may be  
17 prohibited from sale pursuant to the Per- and Poly-Fluoroalkyl  
18 Substances Protection Act and to rules adopted pursuant to that  
19 act.

20 E. A manufacturer shall submit a revision of the  
21 information provided on a product within thirty days of a  
22 significant change to the information the manufacturer  
23 previously submitted or upon the request of the department.

24 F. Upon written approval from the department, a  
25 manufacturer may provide the information required by this

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1 section to the department for a category or type of product or  
2 product component.

3 G. The department may waive the obligation of a  
4 manufacturer to submit all or part of the information required  
5 by this section if the department determines that substantially  
6 equivalent information is already publicly available. The  
7 department may grant a waiver to a manufacturer or a group of  
8 manufacturers for multiple products or a product category.

9 H. The department may enter into an agreement with  
10 one or more other states or political subdivisions of a state  
11 to collect information and may accept information to a shared  
12 system as meeting the information requirements of this section.

13 I. The department may extend the deadline for a  
14 manufacturer to submit the information required by this section  
15 upon a determination by the department that the circumstances  
16 merit an extension of time.

17 J. Upon receiving information from a manufacturer,  
18 the department shall notify the manufacturer that adequate  
19 information has been received or that additional information is  
20 required. A manufacturer shall submit to the department any  
21 additional information requested by the department within  
22 thirty days of the request.

23 K. The requirements of this section do not apply to  
24 products that are exempt pursuant to Subsection A of Section 3  
25 of the Per- and Poly-Fluoroalkyl Substances Protection Act.

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1           SECTION 6.   [NEW MATERIAL] TESTING REQUIRED--CERTIFICATE  
2 OF COMPLIANCE--EXEMPTION.--

3           A.   If the department has reason to believe that a  
4 product containing an intentionally added per- or poly-  
5 fluoroalkyl substance is being sold, offered for sale or  
6 distributed for sale in the state, directly or indirectly or  
7 through intermediaries, the department may direct the  
8 manufacturer of the product to, within thirty days, provide the  
9 department with testing results that demonstrate the amount of  
10 each per- or poly-fluoroalkyl substance, identified by its  
11 chemical abstracts service registry number, in the product,  
12 reported as an exact quantity determined using commercially  
13 available analytical methods or as falling within a range  
14 approved for reporting purposes by the department.

15           B.   If testing demonstrates that the product does  
16 not contain an intentionally added per- or poly-fluoroalkyl  
17 substance, the manufacturer shall provide the department with a  
18 certificate of compliance attesting that the product does not  
19 contain an intentionally added per- or poly-fluoroalkyl  
20 substance, the testing results and any other relevant  
21 information.

22           C.   If testing demonstrates that the product  
23 contains an intentionally added per- or poly-fluoroalkyl  
24 substance, the manufacturer shall:

- 25                   (1) provide to the department, within thirty

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1 days, the information required for a product pursuant to the  
2 Per- and Poly-Fluoroalkyl Substances Protection Act or rules  
3 adopted pursuant to that act; and

4 (2) notify a person that sells, offers for  
5 sale or distributes the product for sale in this state that the  
6 product is prohibited in this state and provide the department  
7 with a list of the names and addresses of the people notified.

8 D. The department may notify a person that sells,  
9 offers for sale or distributes for sale in this state a product  
10 prohibited by the Per- and Poly-Fluoroalkyl Substances  
11 Protection Act or rules adopted pursuant to that act that the  
12 product is prohibited in this state.

13 E. The provisions of this section do not apply to a  
14 medical device or drug or the packaging of a medical device or  
15 drug that is regulated by the United States food and drug  
16 administration.

17 SECTION 7. [NEW MATERIAL] ENFORCEMENT--CIVIL PENALTY.--

18 A. A person that violates a provision of the Per-  
19 and Poly-Fluoroalkyl Substances Protection Act or a rule  
20 adopted pursuant to that act shall be assessed a civil penalty  
21 not to exceed fifteen thousand dollars (\$15,000), and for each  
22 day during which any portion of a violation occurs, the  
23 department may assess the person administrative costs the  
24 department incurs for enforcement of the Per- and Poly-  
25 Fluoroalkyl Substances Protection Act or a rule adopted

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1 pursuant to that act.

2 B. A person that fails to comply with an  
3 administrative order issued pursuant to the Per- and Poly-  
4 Fluoroalkyl Substances Protection Act or a rule adopted  
5 pursuant to that act may be assessed, pursuant to a court  
6 order, a civil penalty of not more than twenty-five thousand  
7 dollars (\$25,000) for each day of noncompliance.

8 C. Penalties imposed pursuant to this section are  
9 independent of any damages, remediation or cleanup costs,  
10 environmental restoration costs or other monetary or  
11 nonmonetary remedies that may be imposed by statutory,  
12 decisional or regulatory laws.

13 D. In an action to enforce the provisions of the  
14 Per- and Poly-Fluoroalkyl Substances Protection Act or an  
15 ordinance, rule or order adopted, imposed or issued pursuant to  
16 that act:

17 (1) the department shall be represented by the  
18 attorney general or the department;

19 (2) a municipality shall be represented by the  
20 attorney general or the municipality; and

21 (3) a county shall be represented by the  
22 district attorney within whose district the county lies.

23 E. Penalties collected pursuant to this section  
24 shall be deposited in the recycling and illegal dumping fund.