

4201 Wilson Blvd., Suite 0515  
Arlington, VA 22203  
(703) 527-6223

March 11, 2024

Dear Chair Danielson, Vice Chair Hinrichsen, and Members of the Senate Business Labor and Technology Committee:

On behalf of the Alliance for Chemical Distribution (ACD), I am writing to you today to voice concerns with SB 81 as it is currently written. ACD supports the gradual phase-out of per- and polyfluorinated substances (PFAS) where functionally viable and commercially available alternatives exist, including when used in firefighting foams that are necessary to control chemical fires. However, we are concerned that the introduced bill would remove a current exemption allowing chemical facilities to use PFAS-containing firefighting foams. The repeal would be effective January 1, 2025. We encourage the committee to either remove this provision or extend the phaseout timeline.

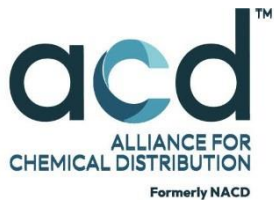
While there are certified synthetic fluorine-free foams (SFFF) currently on the market, data on their effectiveness varies. For example, performance can vary based on what fuel is burning, the foam's aspiration level, and the firefighting and application techniques. Our member companies remain concerned that some facilities will continue to need PFAS-containing firefighting foams until better data and more real-world examples of the effectiveness of SFFF are available.

Additionally, not all SFFF alternatives are drop-in substitutes for PFAS-containing firefighting foams. Fire suppression systems are unique to each chemical facility, and depending on its size and the chemistries a facility handles, it may need to replace a dozen different systems. This transition will take substantially longer than 9 months to make these safety changes — including time to secure a company, obtain the proper permits, properly remove and dispose of the AFFF system, and install and test the SFFF system. We strongly believe that giving chemical facilities less than one year to phase out their existing systems is not realistic.

While ACD supports the intent of this bill to limit non-critical use of PFAS chemistries, this bill as written would force our members to adhere to an unrealistic timeline. We urge this committee to consider amending provisions to ensure affected entities can continue to keep their facilities and communities safe.

Sincerely,

Brian E. Callahan  
Vice President, Legislative Affairs



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## About ACD

The Alliance for Chemical Distribution (ACD) partners with our more than 400 chemical distribution industry members to provide the education, connection, standards, and advocacy they need to responsibly move the essential products our world depends on. As leaders in the \$27B+ chemical distribution industry, ACD member companies commit to the highest standards in quality, safety, sustainability, and performance through ACD Responsible Distribution™. For more information, visit [acd-chem.com](http://acd-chem.com).

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March 8, 2024

Honorable Jessie Danielson, Chair  
Senate Committee on Business, Labor, & Technology  
Colorado General Assembly  
200 E Colfax Avenue  
Denver, CO 80203

**RE: SB 24-081 (Cutter/Kipp): Perfluoroalkyl & Polyfluoroalkyl Chemicals – Oppose unless amended**

Dear Chair Danielson and Honorable Committee Members:

The Household and Commercial Products Association (HCPA) writes to respectfully express concerns regarding SB 24-081 relative to consumer product restrictions. We would like to acknowledge the conversations we have had with the sponsors to date and appreciate their commitment to continue discussions.

We share the goal of moving away from perfluoroalkyl and polyfluoroalkyl substances (PFAS) substances, and where they are still used, industry is working to innovate and reformulate away from them. We support sensible regulations of priority chemicals; however, this bill proposes to enact overly broad language and far-reaching product restrictions without any authoritative scientific evaluation or consideration of alternatives. All of the substances that meet the proposed definition of PFAS are not the same, and individual chemistries have their own unique properties and uses, as well as environmental and health profiles. As written, SB 24-081 would apply a one-size-fits-all approach to chemical regulation that makes compliance exceedingly burdensome, creates new environmental concerns, and even prohibits technologies that are safe for humans and the environment.

#### **Effective dates**

As currently drafted, SB 24-081 would require a faster effective date than any other PFAS product restriction to date. It takes time for companies to transition to new formulations and clear supply chains. One year is not sufficient to allow for this process to take place and HCPA strongly recommends a two-year runway leading to compliance.

#### **Responsible disposal of existing stock**

It is unclear how retailers and the state will manage existing stock once prohibited under SB 24-081. The absence of a sell-through provision could lead to mass disposal of existing products already in the supply chain to avoid violating the law – needlessly adding to waste generated in the state.

Furthermore, from a manufacturer and producer standpoint, once a product is in the hands of distributors and/or on retail shelves, companies have little to no control over product supply, leaving

them open to liability. Like many other product restrictions, the prohibitions in the bill must apply to products *manufactured on or after* the date the restriction enters into force to avoid these unintended consequences.

### **Floor finishes and cleaning products**

SB 24-081, encompasses cleaning product categories without a comprehensive scientific review and, as a result, an entire product category must navigate a new state-mandated timeline while creating new environmental challenges. Floor maintenance products used in schools, hospitals, and office buildings must be reformulated to match safety-specific functionalities and performance and still comply with SB 24-081. This bill jeopardizes the availability of these essential products in Colorado without a clear plan to replace them under the bill's timeline. Relative to typical cleaning products, floor finishes have a degree of permanency, and are designed to remain on the floor for years. These critical products serve to mitigate flooring wear and tear, protect people from falls with slip-resistance, and bring extremely limited if any PFAS exposure to anyone using the floors. Moreover, formulas are optimized to use a minimal amount of fluorosurfactant which extends the life of the floor finish to ensure fewer replacements of the coating and reduces the amount of floor product itself.

For these reasons, HCPA urges the shift of the cleaning products to the 2032 ban provisions, or at the very least floor coatings, to allow more time for product reformulation.

### **Unavoidable uses**

PFAS uses -- as well as human and environmental impacts -- are wide-ranging and it is impossible to ascertain what is unavoidable in a dynamic market. It is not prudent to codify such a sweeping prohibition without the ability to revisit the question of unavoidable uses or even uses that do not rise to the environmental and health concerns that are motivating the bill's introduction.

In no way can the Legislature possibly take stock of all the applications on the market, determine their environmental impact, and measure their value to society in one session. Even for single products, this kind of evaluation can take months to years. It is critical that SB 24-081 provide more regulatory flexibility by establishing department-level authority to permit products that are unavoidable in the 2025 product bans, as well as the broader 2032 ban. Washington state, for example, has turned to its designated environmental department to evaluate product categories, identify what alternatives are available, and attempt to evaluate other factors like usage volume. The Legislature is not designed or equipped for this kind of robust evaluation.

### **Environmentally friendly technologies**

A single-class approach to regulation is not scientifically accurate and can lead to unjustified or unintended product restrictions. For example, HCPA represents the aerosol industry, as this is a common delivery form for many household and commercial products. Aerosol propellants and solvents are highly regulated by state and federal governments, and producers have gone to great lengths in recent years to manufacture and innovate more environmentally preferable products, especially reducing global warming potential (GWP). Compounds such as hydrofluorocarbons (HFCs) and hydrofluoroolefins (HFOs) consist of hydrogen, fluorine and carbon, but are **not persistent, bioaccumulative, or toxic**. Some of these technologies play an important role in addressing Colorado's climate goals. Unfortunately, because some HFOs and HFCs have a fully fluorinated carbon atom, these propellants and solvents would be captured by the bill's definition of PFAS as currently proposed.

Unless SB 24-081 moves to a more science-driven and targeted definition of PFAS, it must recognize certain uses like next-generation aerosols and solvents are important for the state's climate response.

### **Enforcement / Testing**

The bill has no clear testing or enforcement mechanism in place, and therefore it is unclear what exactly manufacturers need to demonstrate for compliance, which is important as the science of PFAS testing continues to evolve.

Late last year, multiple news sources reported that a series of insecticides were found to have "[screamingly high](#)" levels of PFAS based on results published by Texas researchers. The US Environmental Protection Agency (EPA) conducted its own testing in response to the study and an EPA found there was [no detectable PFAS in the pesticides](#), and that the testing conducted in the initial study was not scientifically sound. Furthermore, the European Chemicals Agency (ECHA) [published](#) a document on the enforceability of the EU's restriction of PFAS and noted it is unclear if proper sample preparation can be achieved to enforce properly and effectively. Examples like this underscore how critical it is to ensure testing used to enforce against a manufacturer is scientifically valid.

In the absence of validated testing methodologies for cleaning products, it is critical to establish an enforcement system that is unambiguous for the regulated community. There are no simple tests for PFAS, and this includes the use of screening tests such as "total organic fluorine." Putting aside the fact that this screening test expands the scope of substances even further, complex matrices such as cleaning products contain several interferences that cannot be properly accounted for with total organic fluorine, giving a result that is going to be higher and puts manufacturers and marketers at risk, even when they do not intentionally add PFAS.

### **Conclusion**

The safety of human health and the environment is our top priority and we support efforts to address the release of PFAS into the environment. However, HCPA believes SB 24-081 lacks appropriate nuance, captures products that are not persistent, bioaccumulative, or toxic, and introduces unintended consequences that impact our environment. For the reasons outlined above, we are respectfully opposed to SB 24-081 unless amended to address the above concerns.

Thank you for your consideration of this request and your leadership on these issues. I welcome any opportunity to discuss these concerns and can be reached at [cfinarelli@thehcpa.org](mailto:cfinarelli@thehcpa.org).

Sincerely,



Christopher Finarelli

Sr. Director, State Government Relations & Public Policy - Western Region



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## WRITTEN STATEMENT

JOHN KEANE  
MANAGER OF GOVERNMENT RELATIONS

ON BEHALF OF  
THE ASSOCIATION OF HOME APPLIANCE MANUFACTURERS

COLORADO GENERAL ASSEMBLY  
SENATE BUSINESS, LABOR, & TECHNOLOGY COMMITTEE

SB24-081  
PERFLUOROALKYL AND POLYFLUOROALKYL CHEMICALS  
OPPOSED

MARCH 12, 2024

Chair Danielson, Vice Chair Hinrichsen, and members of the Committee, the Association of Home Appliance Manufacturers (AHAM) strongly urges the committee to consider a clarifying amendment to SB24-081 which would ban 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.

AHAM has conducted a member survey in a good faith effort to determine the extent to which PFAS is used in home appliances. AHAM members indicated portable and major kitchen appliances contain PFAS chemicals but in trace amounts, ranging from as low as 0.001 to 0.07 lbs. per unit. In almost all cases, the use of PFAS was confined to internal components and parts, such as bolts and washers, plastic brackets, and wire terminals with no direct exposure to consumers during use. This material is added during the manufacturing process, which reduces the potential for any consumer exposure during use or transmission to the environment.

In regard to the proposed cookware prohibition which amends HB22-1345 which established a labelling program for cookware with intentionally added PFAS, AHAM understands the need to address PFAS that comes into contact with food being cooked in pots, pans, skillets, and utensils. This is the appropriate priority product-chemical focus. Manufacturers have begun to roll back PFAS in these products. However, because appliances are complex products with many internal components, **we support the below clarifying language**. Definitions are critical in state legislation is vital to manufacturers' interpretation of and compliance with the law. This language builds off and clarifies the products incorporated in this proposed ban.

### Requirements

- *No person shall sell in the state cookware manufactured or imported into the United States on or after January 1, 2027 that contains intentionally added PFAS on any food contact surface.*
- *The state commissioner or agency may issue such actions necessary to implement this requirement or provide exceptions to this requirement.*

### Definitions

- *"Cookware" means pots, pans, skillets, grills, baking sheets, baking molds, trays, bowls, and cooking utensils that are intended to come in direct contact with food during food preparation with applied heat.*
- *"Food contact surfaces" means surfaces that are primarily designed for or have the primary purpose of coming in contact with food during preparation.*

Among the bigger 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. This includes hydrofluoroolefins (HFO’s) and hydrochlorofluoroolefins (HCFO’s) which are environmentally friendly foam blowing agents that is used in refrigeration and environmentally friendly refrigerants used in air conditioning. Refrigerant gases play a crucial role in maintaining the comfort and convenience we enjoy in our day-to-day lives. These specialized gases are an integral part of various cooling systems, including refrigerators, air conditioners, and heat pumps. In fact, the U.S. Environmental Protection Agency (EPA) encouraged and effectively drove a transition to these and other low global warming potential (GWP) foam blowing agents and refrigerants through ozone depletion and climate focused phase outs of CFC’s, HCFC’s, and HFC compounds. Ultimately, the use of such a broad definition could needlessly impose new requirements on products and technologies deemed safe and environmentally beneficial.

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](mailto: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 11,000 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.*



Testimony of the  
Consumer Brands Association  
Before the Colorado Senate Committee on  
Business, Labor and Technology  
In Opposition to SB 81

March 12, 2024

Thank you for the opportunity to submit comments regarding SB 81. The Consumer Brands Association is supportive of the intention of this legislation and is willing to work with the sponsor to seek improvements. **However, the Consumer Brands Association is opposed to SB 81 in its current form.**

The Consumer Brands Association represents the makers of America's household products consumers enjoy and depend on every day. The consumer products industry plays a unique role as the single largest U.S. manufacturing employment sector, and just in the State of Colorado, the industry contributes \$33.9 billion to the state's GDP and supports more than 376,000 jobs.

Consumer Brands members are generally supportive of the intention of this legislation and have been actively undertaking efforts to eliminate intentionally-added PFAS from products and packaging, but we have several concerns with SB 81:

- **SB 81 undercuts the compromises that were reached in 2022 PFAS legislation (HB 22-1345) and creates broad-sweeping bans before CDPHE has even completed its work on the previous bill.** Additionally, CDPHE is currently working on a draft 2024 PFAS Action Plan, gathering community and stakeholder input.
- **The current effective date 1/1/25 provides very little time for manufacturers to comply.** Product manufacturers need sufficient time to ensure compliance across their extensive regional, national and international supply chain networks to complete elimination and secure alternatives.
- **We also request an additional reasonable sell-thru period of one year beyond any final effective date.** This would allow for any products that were previously manufactured and distributed into the state prior to the effective date to remain in commerce. This minimizes potential waste, disposal and inventory complications at the retail level to be reasonably managed.



We appreciate the opportunity to present our concerns, however for these reasons we must oppose SB 81 as currently constructed. Thank you for your time and consideration, and please let us know if we can answer any additional questions going forward.

Sincerely,

A handwritten signature in black ink that reads 'Brendan Flanagan'.

Brendan Flanagan  
Vice President, State Affairs  
Consumer Brands Association

Testimony in support of SB24-81

I write to you as a Family Medicine doctor who has worked in La Plata County for 26 years. I have additional expertise in public health issues.

More importantly, however, I write because my granddaughter who lives in Adams County recently suffered from liver disease, as well as pre-eclampsia, a life threatening disorder in pregnancy, both of which have been associated with per-and polyfluoroalkyl substances (PFAS.) What concerns me most is that her life and her family's health has been needlessly jeopardized by lack of appropriate regulation of PFAS. PFAS have recently been discovered in the Adams County drinking water <https://www.wastetodaymagazine.com/news/south-adams-county-colorado-pfas-brown-caldwell-ion-exchange-water-treatment/>

According to the Federal Drug Administration (FDA) exposure to certain types of PFAS have been linked to serious health effects, including high-blood pressure and pre-eclampsia in pregnant women, developmental effects, decrease in immune response, changes in liver function, and increases in certain types of cancer. (<https://www.fda.gov/food/process-contaminants-food/questions-and-answers-pfas->). PFAS are toxic, man-made chemicals which spread quickly in the environment and do not break down. Despite the phase out of legacy PFAS in 2000, there continue to be related chemicals resulting in the reality that today 99% of Americans have these "forever chemicals" in their blood, including babies. This is because there are newer PFAS in use. In Colorado some of the chief sources of these PFAS are the oil and gas distribution facilities, refineries and chemical plants. In 2012 Colorado required public disclosure of chemicals used in fracking in the state. However, an exceptions allows companies to avoid full and meaningful disclosures if they deem the chemicals a "trade secret." In Adams County, where my granddaughter lives, there are 231 wells with at least one trade secret chemicals, with a mass of all trade secret chemicals of 12,970,690 lbs. <https://psr.org/wp-content/uploads/2022/01/fracking-with-forever-chemicals-in-colorado.pdf>.

SB 24-81 is important because of recent scientific revelations which have been made since prior legislation addressing PFAS contamination in Colorado. As written SB24-81's prohibition of intentionally-added PFAS will go a far way to safeguard our water resources and protect the health of all Coloradan families now and in the future.

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