**§1733. Prohibitions; substitute materials**

**1. Prohibition of sale of packaging containing certain heavy metals.** A manufacturer, supplier or distributor may not offer for sale or for promotional purposes in the State a package or packaging component that includes inks, dyes, pigments, adhesives, stabilizers, coatings or any other additives to which any lead, cadmium, mercury or hexavalent chromium has been intentionally introduced during manufacturing or distribution. This prohibition does not apply to the incidental presence of any of these elements.
[PL 2019, c. 277, §3 (AMD).]

**2. Prohibition of sale of product in packaging containing certain heavy metals.** A manufacturer or distributor may not offer for sale or for promotional purposes in the State any product in a package that includes, in the package itself or any packaging components, inks, dyes, pigments, adhesives, stabilizers, coatings or any other additives to which any lead, cadmium, mercury or hexavalent chromium has been intentionally introduced during manufacturing or distribution. This prohibition does not apply to the incidental presence of any of these elements.
[PL 2019, c. 277, §3 (AMD).]

**3. Concentration levels of certain heavy metals.** For the purposes of subsections 1 and 2, the sum of the concentration levels of lead, cadmium, mercury and hexavalent chromium present in any package or packaging component may not exceed:

A. Effective April 1, 1992, 600 parts per million by weight, or 0.06%; [PL 1989, c. 849, §1 (NEW).]

B. Effective April 1, 1993, 250 parts per million by weight, or 0.025%; and [PL 1989, c. 849, §1 (NEW).]

C. Effective April 1, 1994, 100 parts per million by weight, or 0.01%. [PL 1989, c. 849, §1 (NEW).]
[PL 2019, c. 277, §3 (AMD).]

**3-A. Prohibition of sale of food package containing phthalates.** Beginning January 1, 2022, a manufacturer, supplier or distributor may not offer for sale or for promotional purposes in the State a food package that includes inks, dyes, pigments, adhesives, stabilizers, coatings, plasticizers or any other additives to which phthalates have been intentionally introduced in any amount greater than an incidental presence.

The prohibition in this subsection does not prevent a manufacturer that is located in the State from offering for sale or for promotional purposes outside the State a food package to which phthalates have been intentionally introduced in any amount greater than an incidental presence.
[PL 2019, c. 277, §3 (NEW).]

**3-B. Prohibition of sale of food package containing PFAS.** In accordance with the requirements of this subsection, the department may by rule prohibit a manufacturer, supplier or distributor from offering for sale or for promotional purposes in the State a food package to which PFAS have been intentionally introduced in any amount greater than an incidental presence.

A. The department may not by rule prohibit the sale of a food package to which PFAS have been intentionally introduced in any amount greater than an incidental presence under this subsection unless the department has determined that a safer alternative to the use of PFAS in a specific application of PFAS to a food package is available. To determine that a safer alternative is available, the department must find that a safer alternative is readily available in sufficient quantity and at a comparable cost and that the safer alternative performs as well as or better than PFAS in a specific application of PFAS to a food package. [PL 2019, c. 277, §3 (NEW).]

B. If the department determines pursuant to paragraph A that a safer alternative to the use of PFAS in a specific application of PFAS to a food package is available, the department shall by rule prohibit the sale of a food package to which PFAS have been intentionally introduced in any amount greater than an incidental presence under this subsection, except that such a prohibition may not take effect until January 1, 2022 or 2 years following the date on which the department determines that a safer alternative is available, whichever is later. [PL 2019, c. 277, §3 (NEW).]

The prohibition in this subsection does not prevent a manufacturer that is located in the State from offering for sale or for promotional purposes outside the State a food package to which PFAS have been intentionally introduced in any amount greater than an incidental presence.

Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2019, c. 277, §3 (NEW).]

**3-C. Exemption to prohibition of sale of food package.** The prohibitions in subsections 3-A and 3-B do not apply to a manufacturer of a food or beverage product that is contained in a food package or to which a food package is applied as long as that manufacturer has less than $1,000,000,000 of total annual national sales of food and beverage products.
[PL 2019, c. 277, §3 (NEW).]

**4. Substitute materials.** No material used to replace lead, cadmium, mercury, hexavalent chromium, phthalates or PFAS in a package or packaging component may be used in a quantity or manner that creates a hazard as great as or greater than the hazard created by the prohibited heavy metal or chemical.
[PL 2019, c. 277, §3 (AMD).]

SECTION HISTORY

PL 1989, c. 849, §1 (NEW). PL 2019, c. 277, §3 (AMD).

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