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ASSEMBLY, No. 5583

STATE OF NEW JERSEY
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SYNOPSIS

Prohibits sale, lease, rent, or installation of certain equipment or products containing hydrofluorocarbons or other greenhouse gases.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on January 9, 2020, with amendments.

(Sponsorship Updated As Of: 1/14/2020)

1 AN ACT concerning the reduction of greenhouse gas emissions from
 2 hydrofluorocarbons and supplementing Title 26 ²and Title 52² of
 3 the Revised Statutes.

4
 5 **BE IT ENACTED** by the Senate and General Assembly of the State
 6 of New Jersey:

7
 8 1. As used in this act:

9 “Class I substance” and “class II substance” mean those substances
 10 listed in 42 U.S.C. ¹[Sec. 7671a] s.7671a¹, as ¹[it] that section¹ read
 11 on November 15, 1990, or those substances listed in Appendix A or B
 12 of Subpart A of 40 C.F.R. Part 82, as those ¹appendices¹ read on
 13 January 3, 2017.

14 “Department” means the Department of Environmental Protection.

15 “Hydrofluorocarbons” means the class of greenhouse gases that are
 16 saturated organic compounds containing hydrogen, fluorine, and
 17 carbon.

18 “Manufacturer” means any person, firm, association, partnership,
 19 corporation, governmental entity, organization, or joint venture that
 20 produces any product that contains or uses hydrofluorocarbons or is an
 21 importer or domestic distributor of such a product.

22 “Residential consumer refrigeration product” means the same as
 23 ¹that term is¹ defined in ¹[section 430.2 of Subpart A of]¹ 10 C.F.R.
 24 ¹[Part 430 (2017)] s.430.2, as that section read on January 3, 2017¹.

25 ¹“Retrofit” means the same as that term is defined in 40 C.F.R.
 26 s.82.152, as that section read on January 3, 2017.¹

27 “Substitute” means a chemical, product substitute, or alternative
 28 manufacturing process, whether existing or new, that is used to
 29 perform a function previously performed by a class I substance or
 30 class II substance and any substitute subsequently adopted to perform
 31 that function, including, but not limited to, hydrofluorocarbons.

32
 33 2. a. No person shall offer any product or equipment for sale,
 34 lease, or rent, or install ¹or otherwise cause¹ any equipment or product
 35 ¹to enter into commerce¹ in New Jersey if that equipment or product
 36 consists of, uses, or will use a substitute, as set forth in Appendix U
 37 and Appendix V of Subpart G of 40 C.F.R. Part 82, as those
 38 ¹appendices¹ read on January 3, 2017, for the applications or end uses
 39 restricted by Appendix U or V of the federal regulation, as those
 40 ¹appendices¹ read on January 3, 2017, consistent with the deadlines set
 41 forth in subsection b. of this section.

42 ¹[Nothing] Except where existing equipment is retrofitted,
 43 nothing¹ in this subsection shall require a person to cease using a
 44 product or equipment that was manufactured prior to the effective date
 45 of restrictions set forth in subsection b. of this section. A product or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AEN committee amendments adopted December 9, 2019.

²Senate SBA committee amendments adopted January 9, 2020.

1 equipment manufactured prior to the applicable ¹effective¹ date of the
2 ¹~~restrictions~~ restriction¹ specified in subsection b. of this section
3 may be sold, imported, exported, distributed, installed, and used after
4 ¹~~such specified~~ the applicable effective¹ date.

5 b. For the following products and equipment identified in
6 Appendix U and Appendix V of Subpart G of 40 C.F.R. Part 82, as
7 those ¹appendices¹ read on January 3, 2017, the prohibition set forth in
8 subsection a. of this section shall take effect beginning:

9 (1) ¹~~January~~ July¹ 1, 2020, for:

10 (a) propellants;

11 (b) rigid polyurethane applications and spray foam, flexible
12 polyurethane, integral skin polyurethane, flexible polyurethane foam,
13 polystyrene extruded sheet, polyolefin, and phenolic insulation board
14 and bunstock; and

15 (c) supermarket systems, remote condensing units, ¹and¹ stand-
16 alone units ¹~~], and vending machines~~¹ ;

17 (2) January 1, 2021, for:

18 (a) refrigerated food processing and dispensing equipment;

19 (b) compact residential consumer refrigeration products; and

20 (c) polystyrene extruded boardstock and billet, and rigid
21 polyurethane low-pressure two-component spray foam;

22 (3) January 1, 2022, for ¹;

23 (a) ¹residential consumer refrigeration products other than compact
24 and built-in residential consumer refrigeration products ¹; and

25 (b) vending machines¹ ;

26 (4) January 1, 2023, for:

27 (a) cold storage warehouses; and

28 (b) built-in residential consumer refrigeration products;

29 (5) January 1, 2024, for centrifugal chillers and positive
30 displacement chillers; and

31 (6) On either ¹~~January~~ July¹ 1, 2020, or the effective date of the
32 restrictions identified in Appendix U and Appendix V of Subpart G of
33 40 C.F.R. Part 82, as those ¹appendices¹ read on January 3, 2017,
34 whichever is later, for all other applications and end uses for
35 substitutes not covered by the categories ¹~~set forth in~~¹ listed in
36 paragraphs (1) through (5) of this subsection.

37 c. The department may, by rule or regulation adopted pursuant to
38 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
39 seq.):

40 (1) modify the effective date of a prohibition established in
41 subsection b. of this section, if the department determines that such
42 modification reduces the overall risk to human health or the
43 environment and reflects the earliest date that a substitute is currently
44 or potentially available;

45 (2) prohibit the use of a substitute if the department determines
46 that the prohibition reduces the overall risk to human health or the

1 environment and that a lower risk substitute is currently or potentially
2 available;

3 (3) (a) adopt a list of approved substitutes, use conditions, or use
4 limits, if any; and (b) add or remove substitutes, use conditions, or use
5 limits to or from ¹~~["such"] the~~ list ¹~~of approved substitutes, use~~
6 ~~conditions, or use limits~~¹ if the department determines such action
7 reduces the overall risk to human health and the environment; and

8 (4) designate acceptable ¹~~["issue"]~~ uses of hydrofluorocarbons for
9 medical uses that shall be exempt from the prohibitions set forth in
10 subsection b. of this section.

11 d. ¹~~(1) No later than one year after enactment by another state of~~
12 ~~restrictions on substitutes applicable to new light duty vehicles, the~~
13 ~~department may adopt restrictions applicable to the sale, lease, rental,~~
14 ~~or other introduction into commerce by a manufacturer of new light~~
15 ~~duty vehicles consistent with the restrictions identified in appendix B~~
16 ~~of Subpart G of 40 C.F.R. Part 82, as that appendix read on January 3,~~
17 ~~2017.~~

18 ~~(2) If the United States Environmental Protection Agency~~
19 ~~approves a previously prohibited hydrofluorocarbon blend with a~~
20 ~~global warming potential of 750 or less for foam blowing of~~
21 ~~polystyrene extruded boardstock and billet and rigid polyurethane low-~~
22 ~~pressure two-component spray foam pursuant to the significant new~~
23 ~~alternatives policy program established pursuant to the federal "Clean~~
24 ~~Air Act," 42 U.S.C. s.7671k, the department may propose a rule in~~
25 ~~accordance with "Administrative Procedure Act," P.L.1968, c.410~~
26 ~~(C.52:14B-1 et seq.), to conform the requirements established under~~
27 ~~this section with that federal action.~~

28 ~~e.~~¹ The authority granted by this section to the department for
29 restricting the use of substitutes is supplementary to the authority to
30 control air pollution pursuant to the "Air Pollution Control Act
31 (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.).

32
33 3. a. A manufacturer shall disclose the hydrofluorocarbons and
34 substitutes used in its products or equipment ¹~~["~~. Such disclosure shall
35 take the form of a label on the equipment or product that meets the
36 requirements set forth by the department pursuant to ~~"] in a form and~~
37 ~~manner as determined by the department pursuant to~~¹ rules and
38 regulations adopted pursuant to the "Administrative Procedure Act,"
39 P.L.1968, c.410 (C.52:14B-1 et seq.) ¹~~["or the"] , which may take the~~
40 ~~form of a~~¹ model rule established by the United States Climate
41 Alliance. ¹~~["To the extent feasible, the department shall recognize~~
42 ~~existing"] Until such time as the department adopts disclosure rules~~
43 ~~pursuant to this section, a manufacturer shall use~~¹ labeling that
44 provides sufficient disclosure of the use of substitutes in the product or
45 equipment.

46 b. ¹~~["Beginning December 31, 2019, and annually thereafter, a~~
47 manufacturer shall notify the department of the types of products and

1 equipment containing hydrofluorocarbons that the manufacturer sells,
2 offers for sale, leases, installs, or rents in the State. This notice shall
3 identify each product or piece of equipment and must identify the
4 individual substitutes used in each product or piece of equipment.

5 c. ¹ The department may adopt, pursuant to the “Administrative
6 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), ¹any¹ rules and
7 regulations ¹as the department’s determines necessary¹ to administer,
8 implement, and enforce this section. Where feasible and appropriate,
9 such rules and regulations shall be consistent with the regulatory
10 standards, exemptions, reporting obligations, disclosure requirements,
11 and other compliance requirements of other states that have adopted
12 restrictions on the use of hydrofluorocarbons, or a model rule
13 established by the United States Climate Alliance.

14
15 4. Any person who installs, repairs, maintains, services,
16 replaces, recycles, or disposes of a stationary refrigeration or air
17 conditioning appliance, ¹[or] and¹ any person who distributes or
18 reclaims refrigerants, shall follow the requirements, including ¹the¹
19 prohibitions on venting of refrigerants, ¹[as]¹ set forth in Subpart F
20 of 40 C.F.R. Part 82, as ¹[those] that subpart¹ read on January 3,
21 2017. The department may by rule or regulation adopted pursuant
22 to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
23 1 et seq.), modify or add to such requirements if the department
24 determines that such modifications or additions reduce overall risk
25 to human health or the environment.

26
27 5. A person who violates the provisions of sections 2 through 4
28 of this act, or any rule or regulation adopted pursuant thereto, shall
29 be subject to the ¹enforcement and penalty¹ provisions of section 19
30 of P.L.1954, c.212 (C.26:2C-19) ¹[, as appropriate]¹.

31
32 6. ¹a.¹ No later than December 1, 2020, the department, in
33 consultation with other relevant departments and agencies, shall
34 prepare and submit, to the Governor and, pursuant to section 2 of
35 P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a report
36 ¹[addressing] providing recommendations on¹ how to increase the use
37 of substitutes with low global warming potential that reduce overall
38 risk to human health and the environment in mobile sources, utility
39 equipment, and consumer appliances, and how to reduce other uses of
40 hydrofluorocarbons in the State, including recommendations, if
41 deemed appropriate, concerning how to structure, fund, and prioritize a
42 State incentive program to reduce uses of hydrofluorocarbons in the
43 State.

44 ¹b. In lieu of submitting a separate report pursuant to this section,
45 the department may include the information required to be submitted
46 pursuant to subsection a. of this section in the report required pursuant
47 to subsection c. of section 6 of P.L.2007, c.112 (C.26:2C-42), provided

1 that report is transmitted to the appropriate parties prior to December
2 1, 2020.¹

3
4 ¹**[7.** a. The department, in consultation with the Department of
5 the Treasury, shall establish a purchasing and procurement policy
6 that (1) provides a preference for products that are not restricted
7 pursuant to section 2 of this act, and (2) uses substitutes with low
8 global warming potential that reduce overall risk to human health
9 and the environment.

10 b. Nothing in this section requires the department or any other
11 State agency to breach an existing contract or dispose of stock that
12 has been ordered or is in the possession of the department or other
13 state agency as of the effective date of this act.]¹

14
15 ¹7. Nothing in this act shall be construed to impose liability on
16 any news media that accepts or publishes advertising for any
17 product that would otherwise be subject to the provisions of this
18 act.¹

19
20 ¹8. If any provision of this act or the application thereof to any
21 person or circumstances is held invalid, the remainder of the act and
22 the application of such provision to persons or circumstances other
23 than those to which it is held invalid, shall not be affected thereby.¹

24
25 ²9. a. The Commissioner of Community Affairs shall adopt,
26 pursuant to the "State Uniform Construction Code Act," P.L.1975,
27 c.217 (C.52:27D-119 et seq.), a list of approved uses, and use
28 conditions or use limits, if applicable, for substitutes, as defined
29 pursuant to section 1 of P.L. , c. (C.) (pending before the
30 Legislature as this bill).

31 b. Each substitute, use, use condition, or use limit in the list
32 adopted pursuant to this section shall be:

33 (1) approved under the "Significant New Alternatives Policy"
34 program in the United States Environmental Protection Agency
35 pursuant to 42 U.S.C. s.7671k, and approved by the Department of
36 Environmental Protection; or

37 (2) approved by the Department of Environmental Protection
38 pursuant to section 2 of P.L. , c. (C.) (pending before the
39 Legislature as this bill).²

40
41 ¹**[8.]** ²**[9.]** ^{10.}² This act shall take effect immediately.