

SENATE, No. 3919

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 6, 2019

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/11/2019)

1 AN ACT concerning the reduction of greenhouse gas emissions from
2 hydrofluorocarbons and supplementing Title 26 of the Revised
3 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
10 substances listed in 42 U.S.C. Sec. 7671a, as it read on November
11 15, 1990, or those substances listed in Appendix A or B of Subpart
12 A of 40 C.F.R. Part 82, as those read on January 3, 2017.

13 “Department” means the Department of Environmental
14 Protection.

15 “Hydrofluorocarbons” means the class of greenhouse gases that
16 are 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
21 an importer or domestic distributor of such a product.

22 “Residential consumer refrigeration product” means the same as
23 defined in section 430.2 of Subpart A of 10 C.F.R. Part 430 (2017).

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

30
31 2. a. No person shall offer any product or equipment for sale,
32 lease, or rent, or install any equipment or product in New Jersey if
33 that equipment or product consists of, uses, or will use a substitute,
34 as set forth in Appendix U and Appendix V of Subpart G of 40
35 C.F.R. Part 82, as those read on January 3, 2017, for the
36 applications or end uses restricted by Appendix U or V of the
37 federal regulation, as those read on January 3, 2017, consistent with
38 the deadlines set forth in subsection b. of this section.

39 Nothing in this subsection shall require a person to cease using a
40 product or equipment that was manufactured prior to the effective
41 date of restrictions set forth in subsection b. of this section. A
42 product or equipment manufactured prior to the applicable date of
43 the restrictions specified in subsection b. of this section may be
44 sold, imported, exported, distributed, installed, and used after such
45 specified date.

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

- 1 (1) January 1, 2020, for:
 - 2 (a) propellants;
 - 3 (b) rigid polyurethane applications and spray foam, flexible
4 polyurethane, integral skin polyurethane, flexible polyurethane
5 foam, polystyrene extruded sheet, polyolefin, and phenolic
6 insulation board and bunstock; and
 - 7 (c) supermarket systems, remote condensing units, stand-alone
8 units, and vending machines;
- 9 (2) January 1, 2021, for:
 - 10 (a) refrigerated food processing and dispensing equipment;
 - 11 (b) compact residential consumer refrigeration products; and
 - 12 (c) polystyrene extruded boardstock and billet, and rigid
13 polyurethane low-pressure two-component spray foam;
- 14 (3) January 1, 2022, for residential consumer refrigeration
15 products other than compact and built-in residential consumer
16 refrigeration products;
- 17 (4) January 1, 2023, for:
 - 18 (a) cold storage warehouses; and
 - 19 (b) built-in residential consumer refrigeration products;
- 20 (5) January 1, 2024, for centrifugal chillers and positive
21 displacement chillers; and
- 22 (6) On either January 1, 2020, or the effective date of the
23 restrictions identified in Appendix U and Appendix V of Subpart G
24 of 40 C.F.R. Part 82, as those read on January 3, 2017, whichever is
25 later, for all other applications and end uses for substitutes not
26 covered by the categories set forth in listed in paragraphs (1)
27 through (5) of this subsection.
- 28 c. The department may, by rule or regulation adopted pursuant
29 to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
30 1 et seq.):
 - 31 (1) modify the effective date of a prohibition established in
32 subsection b. of this section, if the department determines that such
33 modification reduces the overall risk to human health or the
34 environment and reflects the earliest date that a substitute is
35 currently or potentially available;
 - 36 (2) prohibit the use of a substitute if the department determines
37 that the prohibition reduces the overall risk to human health or the
38 environment and that a lower risk substitute is currently or
39 potentially available;
 - 40 (3) (a) adopt a list of approved substitutes, use conditions, or
41 use limits, if any; and (b) add or remove substitutes, use conditions,
42 or use limits to or from such list if the department determines such
43 action reduces the overall risk to human health and the
44 environment; and
 - 45 (4) designate acceptable issue uses of hydrofluorocarbons for
46 medical uses that shall be exempt from the prohibitions set forth in
47 subsection b. of this section.
- 48 d. The authority granted by this section to the department for
49 restricting the use of substitutes is supplementary to the authority to

1 control air pollution pursuant to the “Air Pollution Control Act
2 (1954),” P.L.1954, c.212 (C.26:2C-1 et seq.).

3
4 3. a. A manufacturer shall disclose the hydrofluorocarbons and
5 substitutes used in its products or equipment. Such disclosure shall
6 take the form of a label on the equipment or product that meets the
7 requirements set forth by the department pursuant to rules and
8 regulations adopted pursuant to the “Administrative Procedure
9 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) or the model rule
10 established by the United States Climate Alliance. To the extent
11 feasible, the department shall recognize existing labeling that
12 provides sufficient disclosure of the use of substitutes in the product
13 or equipment.

14 b. Beginning December 31, 2019, and annually thereafter, a
15 manufacturer shall notify the department of the types of products
16 and equipment containing hydrofluorocarbons that the manufacturer
17 sells, offers for sale, leases, installs, or rents in the State. This
18 notice shall identify each product or piece of equipment and must
19 identify the individual substitutes used in each product or piece of
20 equipment.

21 c. The department may adopt, pursuant to the “Administrative
22 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
23 regulations to administer, implement, and enforce this section.
24 Where feasible and appropriate, such rules and regulations shall be
25 consistent with the regulatory standards, exemptions, reporting
26 obligations, disclosure requirements, and other compliance
27 requirements of other states that have adopted restrictions on the
28 use of hydrofluorocarbons, or a model rule established by the
29 United States Climate Alliance.

30
31 4. Any person who installs, repairs, maintains, services,
32 replaces, recycles, or disposes of a stationary refrigeration or air
33 conditioning appliance, or any person who distributes or reclaims
34 refrigerants, shall follow the requirements, including prohibitions
35 on venting of refrigerants, as set forth in Subpart F of 40 C.F.R.
36 Part 82, as those read on January 3, 2017. The department may by
37 rule or regulation adopted pursuant to the “Administrative
38 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), modify or
39 add to such requirements if the department determines that such
40 modifications or additions reduce overall risk to human health or
41 the environment.

42
43 5. A person who violates the provisions of sections 2 through 4
44 of this act, or any rule or regulation adopted pursuant thereto, shall
45 be subject to the provisions of section 19 of P.L.1954, c.212
46 (C.26:2C-19), as appropriate.

47
48 6. No later than December 1, 2020, the department, in
49 consultation with other relevant departments and agencies, shall

1 prepare and submit, to the Governor and, pursuant to section 2 of
2 P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a report
3 addressing how to increase the use of substitutes with low global
4 warming potential that reduce overall risk to human health and the
5 environment in mobile sources, utility equipment, and consumer
6 appliances, and how to reduce other uses of hydrofluorocarbons in
7 the State, including recommendations, if deemed appropriate,
8 concerning how to structure, fund, and prioritize a State incentive
9 program to reduce uses of hydrofluorocarbons in the State.

10
11 7. a. The department, in consultation with the Department of
12 the Treasury, shall establish a purchasing and procurement policy
13 that (1) provides a preference for products that are not restricted
14 pursuant to section 2 of this act, and (2) uses substitutes with low
15 global warming potential that reduce overall risk to human health
16 and the environment.

17 b. Nothing in this section requires the department or any other
18 State agency to breach an existing contract or dispose of stock that
19 has been ordered or is in the possession of the department or other
20 state agency as of the effective date of this act.

21
22 8. This act shall take effect immediately.

23
24
25 STATEMENT

26
27 Hydrofluorocarbons (HFCs) are potent greenhouse gases used
28 primarily as refrigerants in a variety of commercial and industrial
29 applications. The United States Environmental Protection Agency
30 (USEPA) and leading companies have identified the availability of
31 safer alternatives that do not have the same adverse climate effects
32 as HFCs, and that are readily available and cost-effective. This bill
33 would transition New Jersey from HFCs to replacements that have
34 lower global warming potential and that pose lower overall risks to
35 human health and the environment. This bill is similar to a law
36 enacted in California in 2018 and enacted in Washington in May
37 2019.

38 Specifically, this bill would provide that persons may not sell,
39 install, offer for lease, or rent restricted equipment or products in
40 the State, in accordance with timeframes established in the bill.
41 The bill would establish the following effective dates for
42 restrictions:

- 43 • January 1, 2020, for: propellants; rigid polyurethane
44 applications and spray foam, flexible polyurethane, integral
45 skin polyurethane, flexible polyurethane foam, polystyrene
46 extruded sheet, polyolefin, and phenolic insulation board and
47 bunstock; and supermarket systems, remote condensing
48 units, stand-alone units, and vending machines;

- 1 • January 1, 2021, for: refrigerated food processing and
2 dispensing equipment; compact residential consumer
3 refrigeration products; and polystyrene extruded boardstock
4 and billet, and rigid polyurethane low-pressure two
5 component spray foam;
- 6 • January 1, 2022, for: residential consumer refrigeration
7 products, other than compact and built-in residential
8 consumer refrigeration products;
- 9 • January 1, 2023, for: cold storage warehouses; and built-in
10 residential consumer refrigeration products; and
- 11 • January 1, 2024, for centrifugal chillers and positive
12 displacement chillers.

13 In addition, for all other applications and end uses for substitutes
14 not covered by the categories set forth above, the effective date of
15 the restrictions would be either January 1, 2020, or the effective
16 date of the restrictions identified in Appendix U and Appendix V of
17 Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017,
18 whichever is later.

19 The bill would require every manufacturer to disclose on a label
20 the HFCs and substitutes used in its products or equipment. In
21 addition, beginning December 31, 2019, and annually thereafter, the
22 bill would require every manufacturer to notify the Department of
23 Environmental Protection (DEP) of the types of products and
24 equipment containing HFCs that the manufacturer sells, offers for
25 sale, leases, installs, or rents in the State.

26 Products manufactured prior to the effective date of a restriction
27 may be sold, imported, exported, distributed, installed, and used
28 after the effective date of the restriction, and persons that acquired
29 products or equipment, including commercial refrigeration
30 equipment, prior to the effective date are not required to cease use
31 of restricted types of products or equipment.

32 In addition, the bill would require the DEP, no later than
33 December 1, 2020, to prepare and submit, to the Governor and the
34 Legislature, a report addressing how to increase the use of
35 substitutes for HFCs that reduce overall risk to human health and
36 the environment in mobile sources, utility equipment, and consumer
37 appliances, and how to reduce other uses of HFCs in the State,
38 including recommendations, if deemed appropriate, concerning how
39 to structure, fund, and prioritize a State incentive program to reduce
40 uses of HFCs in the State.

41 Lastly, the bill would require the DEP, in consultation with the
42 Department of the Treasury, to establish a purchasing and
43 procurement policy that provides a preference for products that are
44 not restricted pursuant to the bill and uses substitutes that reduce
45 overall risk to human health and the environment. The bill would
46 not require any State agency to breach an existing contract or
47 dispose of stock that has been ordered or is in its possession when
48 the bill is enacted into law.