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

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. As used in this act:
   “Class I substance” and “class II substance” mean those substances listed in 42 U.S.C. Sec. 7671a, as it read on November 15, 1990, or those substances listed in Appendix A or B of Subpart A of 40 C.F.R. Part 82, as those read on January 3, 2017.
   “Department” means the Department of Environmental Protection.
   “Hydrofluorocarbons” means the class of greenhouse gases that are saturated organic compounds containing hydrogen, fluorine, and carbon.
   “Manufacturer” means any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces any product that contains or uses hydrofluorocarbons or is an importer or domestic distributor of such a product.
   “Residential consumer refrigeration product” means the same as defined in section 430.2 of Subpart A of 10 C.F.R. Part 430 (2017).
   “Substitute” means a chemical, product substitute, or alternative manufacturing process, whether existing or new, that is used to perform a function previously performed by a class I substance or class II substance and any substitute subsequently adopted to perform that function, including, but not limited to, hydrofluorocarbons.

2. a. No person shall offer any product or equipment for sale, lease, or rent, or install any equipment or product in New Jersey if that equipment or product consists of, uses, or will use a substitute, as set forth in Appendix U and Appendix V of Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, for the applications or end uses restricted by Appendix U or V of the federal regulation, as those read on January 3, 2017, consistent with the deadlines set forth in subsection b. of this section.
   Nothing in this subsection shall require a person to cease using a product or equipment that was manufactured prior to the effective date of restrictions set forth in subsection b. of this section. A product or equipment manufactured prior to the applicable date of the restrictions specified in subsection b. of this section may be sold, imported, exported, distributed, installed, and used after such specified date.
   b. For the following products and equipment identified in Appendix U and Appendix V of Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, the prohibition set forth in subsection a. of this section shall take effect beginning:
(1) January 1, 2020, for:
   (a) propellants;
   (b) rigid polyurethane applications and spray foam, flexible
       polyurethane, integral skin polyurethane, flexible polyurethane
       foam, polystyrene extruded sheet, polyolefin, and phenolic
       insulation board and bunstock; and
   (c) supermarket systems, remote condensing units, stand-alone
       units, and vending machines;

(2) January 1, 2021, for:
   (a) refrigerated food processing and dispensing equipment;
   (b) compact residential consumer refrigeration products; and
   (c) polystyrene extruded boardstock and billet, and rigid
       polyurethane low-pressure two-component spray foam;

(3) January 1, 2022, for residential consumer refrigeration
    products other than compact and built-in residential consumer
    refrigeration products;

(4) January 1, 2023, for:
   (a) cold storage warehouses; and
   (b) built-in residential consumer refrigeration products;

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

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

c. The department may, by rule or regulation adopted pursuant
   to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
   1 et seq.):
   (1) modify the effective date of a prohibition established in
       subsection b. of this section, if the department determines that such
       modification reduces the overall risk to human health or the
       environment and reflects the earliest date that a substitute is
       currently or potentially available;
   (2) prohibit the use of a substitute if the department determines
       that the prohibition reduces the overall risk to human health or the
       environment and that a lower risk substitute is currently or
       potentially available;
   (3) (a) adopt a list of approved substitutes, use conditions, or
       use limits, if any; and (b) add or remove substitutes, use conditions,
       or use limits to or from such list if the department determines such
       action reduces the overall risk to human health and the
       environment; and
   (4) designate acceptable issue uses of hydrofluorocarbons for
       medical uses that shall be exempt from the prohibitions set forth in
       subsection b. of this section.

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

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

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

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

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

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

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

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

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

8. This act shall take effect immediately.

STATEMENT

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

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

- January 1, 2020, for: propellants; rigid polyurethane applications and spray foam, flexible polyurethane, integral skin polyurethane, flexible polyurethane foam, polystyrene extruded sheet, polyolefin, and phenolic insulation board and bunstock; and supermarket systems, remote condensing units, stand-alone units, and vending machines;
• January 1, 2021, for: refrigerated food processing and dispensing equipment; compact residential consumer refrigeration products; and polystyrene extruded boardstock and billet, and rigid polyurethane low-pressure two component spray foam;

• January 1, 2022, for: residential consumer refrigeration products, other than compact and built-in residential consumer refrigeration products;

• January 1, 2023, for: cold storage warehouses; and built-in residential consumer refrigeration products; and

• January 1, 2024, for centrifugal chillers and positive displacement chillers.

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

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

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

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

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