

Multiple Agency Fiscal Note Summary

Bill Number: 2658 S HB PL	Title: Perfluorinated chemicals
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Estimated Cash Receipts

NONE

Estimated Expenditures

Agency Name	2017-19			2019-21			2021-23		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Department of Health	.0	0	0	.0	0	0	.0	0	0
Department of Ecology	.0	0	97,333	.0	0	97,333	.8	0	232,680
Total	0.0	\$0	\$97,333	0.0	\$0	\$97,333	0.8	\$0	\$232,680

Estimated Capital Budget Impact

NONE

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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID: 52876

FNS029 Multi Agency rollup

Individual State Agency Fiscal Note

Bill Number: 2658 S HB PL	Title: Perfluorinated chemicals	Agency: 303-Department of Health
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Part I: Estimates

☒ No Fiscal Impact

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 03/02/2018
Agency Preparation: Jodine Sorrell	Phone: (360) 236-3015	Date: 03/05/2018
Agency Approval: Ryan Black	Phone: (360) 236-4530	Date: 03/05/2018
OFM Review: Bryce Andersen	Phone: (360) 902-0580	Date: 03/05/2018

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

There is no change from the previous fiscal note the Department of Health (DOH) submitted on the ESHB version of this bill.

This bill prohibits the intentional addition of perfluorinated (PFAS) chemicals to food packaging made of plant fibers and directs the Department of Ecology (ECY) to conduct an alternatives assessment and publish its findings. The Department of Health is not named in this bill and any consulting it may provide to ECY falls within normal consulting work; therefore, there is no fiscal impact to DOH.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 2658 S HB PL	Title: Perfluorinated chemicals	Agency: 461-Department of Ecology
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years	0.0	0.1	0.0	0.0	0.8
Account					
State Toxics Control Account-State 173-1	0	97,333	97,333	97,333	232,680
Total \$	0	97,333	97,333	97,333	232,680

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 03/02/2018
Agency Preparation: Vince Chavez	Phone: 360-407-6561	Date: 03/05/2018
Agency Approval: Erik Fairchild	Phone: 360-407-7005	Date: 03/05/2018
OFM Review: Linda Steinmann	Phone: 360-902-0573	Date: 03/05/2018

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

When comparing 2658 SHB.PL to the previous bill version 2658 ESHB, there are no changes to the bill language, so the fiscal impacts remain the same.

In current law, the Packages Containing Metals Act (RCW 70.95G) specifies maximum allowable concentration levels for selected metals in product packaging. Packaging manufacturers are required to develop and retain a certificate of compliance with these metals limits for their packaging. Ecology may prohibit the sale of any package if a manufacturer does not comply with the certificate of compliance requirement.

This bill would add a new section and amend two sections of RCW 70.95G to ban the sale or distribution of food packaging containing intentionally added per- and polyfluorinated alkyl substances (PFAS chemicals).

Section 2 – A new section would be added to RCW 70.95G that would prohibit the sale or distribution of food packaging to which a PFAS chemical has been intentionally added in any amount beginning January 1, 2022. The prohibition would be delayed until Ecology identifies safer alternatives and publishes the findings. Identification of safer alternatives would be based on the alternatives assessment guidelines issued by the Interstate Chemicals Clearinghouse (IC2). If safer alternatives are not identified by January 1, 2020, Ecology must conduct alternative assessments annually beginning January 1, 2022, until safer alternatives are identified.

Section 3 – RCW 70.95G.040 would be amended to require food packaging manufacturers to develop a certificate of compliance with the ban on intentionally added PFAS chemicals by the date of a prohibition taking effect under the safer alternatives described under Section 2.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

To carry out the requirements of Section 2 and 3, the following applies:

- Ecology would contract for an alternatives analysis of food contact packaging that comes into direct contact with food from July 2018 to December 2019.
- Ecology would carry out the intent of the bill to address paper and fiber products that have direct contact with food, such as paper plates, muffin wrappers, and burger wrappers. Ecology assumes that the relevant direct-contact food paper and packaging materials would include substrates or base-layers, such as, palm leaf, bamboo and wood-based natural fiber papers, and that these substrates would be treated by coating processes or other chemical addition with any of up to ten additive chemicals or chemical treatment products to achieve desired performance attributes. For that reason, the alternatives assessment efforts would be focused on the most relevant product types. This fiscal note reflects that focus.
- Compliance efforts related to the food packaging would start January 2022.

- Requesting certificates of compliance from food packaging manufacturers would start January 2022.
- Product testing of food packaging materials to confirm compliance would start in July 2022. Enforcement efforts related to the product testing results would start January 2023.
- Product testing for PFAS in food packaging is currently limited to one EPA-validated analytical method that reports fewer than 50 PFAS chemicals. This fiscal note assumes this EPA-validated method would be used.
- There are reported to be as many as 3,000 PFAS chemicals in use in products. However, available laboratory analyses do not provide testing technology for all of these chemicals. Additional investigation into appropriate analytical protocols and detection thresholds would be required to develop methods to identify products as having “no intentionally added PFAS chemicals.”

Ecology estimates the following workload and costs for Section 2 (concerning prohibition of PFAS chemicals in food contact materials and alternatives assessment):

Ecology would conduct education and outreach efforts, including update of the Toxics in Packaging website, outreach to manufacturers of food packaging regarding the prohibition and alternatives assessment. Education and outreach would begin July 1, 2021, and end June 1, 2022. This would be performed by an Environmental Specialist 4 (ES4) at 0.06 FTE in FY22.

Ecology would contract for an alternatives assessment (AA) of food packaging products, limited to food contact materials that come into direct contact with food. Based on current knowledge about food contact materials, Ecology assumes that safer alternatives for some or all food packaging products that directly contact food would likely be identified by the alternatives assessment completed by December 2019 and published by January 2020. Contracting for the alternatives assessment, managing the contract, reviewing and commenting on the draft alternatives assessment, requesting and incorporating external peer review of the alternatives assessment, and finalizing the report to the legislature would begin July 2018 and end December 2019. Contract management and report to the legislature would be performed by a Chemist 4 at 0.06 FTE in FY19 and 0.06 FTE in FY20. The contract performed by a qualified consultant for the alternatives assessment for the scope described above would be \$175,000 and begin in July 2018 and end December 2019.

Section 2(5) would require Ecology to review and report on safer alternatives for food contact materials if safer alternatives were not identified by January 2020. Due to current knowledge about food contact materials and for the purpose of this fiscal note, it is assumed that safer alternatives would likely be identified for food contact materials that come into direct contact with food by the January 2020 date, if those alternatives exist. In the event that safer alternatives were not identified by that date, Ecology would continue to identify any new products that might satisfy the intent of the bill. This would be part of normal staff activity. The modest scope of updated alternatives assessment data and reporting to the legislature would be performed by an existing Chemist 3 at 0.03 per year, beginning in FY 21, and continuing at that rate until a safer alternative would be identified. Reassigning this Chemist 3 would displace a corresponding amount of toxic reduction efforts during that time.

Ecology assumes the following workload and costs for Section 3 (relating to certificate of compliance and enforcement):

Ecology would work with food packaging manufacturers to come into compliance with the PFAS prohibition after January 2022; requesting certificates of compliance after January 2022, using product test results of food contact materials to ensure compliance; writing notices of correction, notices of violation and orders for compliance. The product testing effort is detailed below. Education and outreach efforts described for Section 2 account for work during FY 22 and are not duplicated for Section 3. Compliance work would be performed by an ES4 in FY23 and FY24 for a total of 0.10 FTE per fiscal year. The work would continue in FY25 and be ongoing

at a reduced level of ES4 for a total of 0.05 FTE per fiscal year.

Ecology anticipates no other impact for legal services. Based on experience with chemical restriction laws, enforcement of the PFAS chemicals prohibition would not result in a need for Ecology to issue penalties under this bill. Therefore, Ecology does not anticipate any need for legal services to defend penalties or appeals of orders. While ATG would provide legal advice to Ecology relating to bringing food packaging manufacturers into compliance with the PFAS restriction (e.g. help draft letters, notices of correction, possible orders to comply), the level of this work is nominal and within current level of resources of basic ATG support to Ecology

Ecology assumes that many PFAS chemical treatments for food packaging contain polymeric substances that will not be well-detected by EPA validated analytical methods. Ecology would need to determine appropriate analytical protocols and detection thresholds (levels of fluorine or other analytes) that would be used to identify products as having “no intentionally added PFAS.” This work would be performed by a Chemist 4 at 0.3 FTE in FY22, 0.5 FTE in FY23, and 0.3 FTE in FY24.

Once the appropriate analytical protocols have been established, Ecology would need to develop a quality assurance project plan (QAPP), conduct sampling and analytical testing (e.g. fluorine screening and laboratory analysis), and preparation of a report describing the food packaging test results. This work would be performed by a Chemist 4 and Chemist 3 at a total of 0.05 FTE each in FY22, 0.1 FTE each in FY23, and 0.05 FTE each in FY24. This work would continue after the first two years at a reduced level.

Sampling and analysis assumes analytical protocol used for similar PFAS chemicals testing work using existing EPA analytical methods covering about 50 PFAS chemicals. Note that costs for a wider analytical method would be indeterminate. For the purpose of this estimate, a total of 100 samples of food contact materials would be purchased and screened for the presence of total fluorine, which would identify the presence of PFAS chemicals. We assume a subset of 50 of those samples would report a positive screening result for total fluorine and then be submitted for laboratory analysis. The cost of fluorine screening is \$40 per sample and the cost of laboratory analysis is \$500 per sample. The annual cost for testing food packaging would be \$4,000 for screening (\$40 X 100) and \$25,000 for laboratory analysis (\$500 X 50) for a total annual cost of \$29,000. The cost of screening and analysis would be \$29,000 in FY23 shown in object E. Food packaging testing would continue after the first two years at a reduced level in FY25, and then every second year ongoing at a reduced level of 50 screened samples (\$40 X 50) and 20 laboratory samples (\$500 X 20) for a biennial cost of \$12,000 in FY25.

Total estimated costs to implement this bill would be:

\$97,333 and 0.1 FTE in FY19;

\$97,333 and 0.1 FTE in FY20;

\$78,431 and 0.6 FTE in FY22; and

\$154,249 and 0.9 FTE in FY23.

Ecology would have costs in FY24 and later years that are beyond the timeframe of the fiscal note tables.

Notes on costs by object:

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 37% of salaries.

Contracts include \$175,000 (\$87,500 FY19, \$87,500 FY20) for an alternatives assessment.

Goods and Services are the agency average of \$4,477 per direct program FTE. Goods and Services also includes \$29,000 in FY23 for lab screening and analysis.

Travel is the agency average of \$2,552 per direct program FTE.

Equipment is the agency average of \$1,265 per direct program FTE.

Agency Administrative Overhead is calculated at the federally approved agency indirect rate of 29.35% of direct program salaries and benefits, and is shown as object 9. Agency Administrative Overhead FTEs are included at 0.15 FTE per direct program FTE, and are identified as Fiscal Analyst 2 and IT Specialist 2.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2018	FY 2019	2017-19	2019-21	2021-23
FTE Staff Years		0.1	0.0	0.0	0.8
A-Salaries and Wages		5,268	5,268	5,268	108,804
B-Employee Benefits		1,949	1,949	1,949	40,257
C-Professional Service Contracts		87,500	87,500	87,500	
E-Goods and Other Services		269	269	269	34,867
G-Travel		153	153	153	3,344
J-Capital Outlays		76	76	76	1,659
9-Agency Administrative Overhead		2,118	2,118	2,118	43,749
Total:	\$0	\$97,333	\$97,333	\$97,333	\$232,680

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2018	FY 2019	2017-19	2019-21	2021-23
CHEMIST 3	75,683					0.1
CHEMIST 4	87,793		0.1	0.0	0.0	0.5
ENVIRONMENTAL SPEC 4	66,894					0.1
FISCAL ANALYST 2			0.0	0.0	0.0	0.1
IT SPECIALIST 2						0.0
Total FTEs			0.1	0.0	0.0	0.8

Part IV: Capital Budget Impact

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.