



SB 903 (Skinner) – OPPOSE

*Legislation Stifles Innovation, Negatively Impacts Virtually Every Sector of the Economy
Aerospace, Semiconductors, Clean Energy, Electronics, Medical, Industrial Processes, Agriculture
Millions in New State Costs to Implement*

A coalition of California's leading job creators, innovators, manufacturers, grocers, clean energy producers, agriculture and others is **opposed to SB 903 (Skinner)**, legislation that would create an expensive and complex new regulatory program at the Department of Toxic Substances Control (DTSC) to regulate all commercial and consumer products that may contain, as well as any industrial manufacturing processes that may use, perfluoroalkyl and polyfluoroalkyl (PFAS) substances.

In addition to the numerous policy issues, the Senate Appropriations Committee recently **identified millions of dollars in new spending that would be required.**

“Fiscal Impact: Unknown but significant ongoing costs, **likely more than \$10 million annually (special fund) for DTSC to implement the provisions of this bill.** DTSC notes that because this bill would extend beyond currently regulated products containing PFAS, SB 903 would significantly expand the regulated community and **DTSC would need to establish a new branch within the organization to develop, implement, and administer this new initiative.** As a result, this bill would incur significant costs. According to DTSC, the exact magnitude of this bill is unknown; however, the department anticipates it **would require at least 44 positions and over \$10 million** to sufficiently implement this bill as currently written.

To the extent that other state departments use or procure products containing intentionally added PFAS that would be affected by this bill, **unknown but potentially significant state costs for state boards, departments, and organizations to comply with the provisions of this bill.”**

The following policy issues render the proposed approach unworkable.

- The bill's failure to recognize the critical and essential use of PFAS in a diverse array of products, applications, and industries on which California's economy relies, and in

industries in which both California and the federal government heavily invest and seek to expand, such as clean energy.

- The bill's generalized characterization and class-based definition of PFAS, which ignores the unique chemical and physical properties of certain PFAS chemistries that determine their mobility, bioavailability, and toxicity, and by extension, whether these chemistries pose any meaningful risk to human health or the environment.
- The likely conflict between SB 903 and existing PFAS-in-products laws, which will cause uncertainty and confusion among regulated persons and frustrate implementation and enforcement.
- A vague DTSC regulatory process that minimizes manufacturer engagement and fails to provide manufacturers with sufficient notice and due process.
- The failure to utilize DTSC's existing chemical management authority to regulate PFAS in commercial and consumer products or recognize new PFAS reporting rules recently finalized by the United States Environmental Protection Agency (USEPA), both of which could be used to inform regulation of PFAS more fully in consumer and commercial products.
- Regulatory action is triggered if any other state or country bans a product that contains PFAS, regardless of any finding by DTSC.
- Allows the public to petition DTSC to ban a product category earlier than 2032, even before a manufacturer is allowed to petition DTSC for a currently unavoidable use exemption.
- Manufacturers can only submit petitions from January 1, 2030 – July 31, 2031, leaving DTSC with only a small window in time to review and analyze potentially hundreds of thousands of petitions before the 2032 ban date becomes effective.
- DTSC will need to analyze, retain, and ultimately safeguard proprietary information across numerous sectors, including sectors necessary for national security.

Attempts to implement this type of regulatory program have proven to be extremely challenging. The experiences of other jurisdictions serve as cautionary tales for California. For example, in the European Union, industries have submitted thousands of comments on the widespread consequences of a ban and the lack of suitable alternatives. As a result, EU authorities have had to delay consideration of their restriction proposal given the complexity of the issue, the number of industries and applications impacted, and the potential consequences for the EU's long-term sustainability, public health, and economic growth goals.

In 2021, Maine passed a similarly broad-brush ban on products using PFAS chemistries and the Maine Department of Environmental Protection (DEP) has since struggled to implement the mandate. The Maine DEP has issued more than 2400 extensions to companies for just its PFAS reporting requirement due to a variety of reasons including complicated supply chains for manufacturers to determine if PFAS is included, lack of an operational database for manufacturers to submit product information, limited lab capacity within the US to test products for PFAS and lack of protections for confidential business information.

As a result, Maine Governor Janet Mills (D) on April 16, 2024, signed into law LD 1537, legislation that substantially reformed the initial law, but still failed to create a working framework for all sectors. Changes included extending some compliance deadlines, streamlining reporting requirements, attempting to add protections for confidential business information and exempting several broad product categories recognizing how many sectors would be significantly impacted.

Moreover, we question the need for SB 903 considering the existing DTSC Safer Consumer Products (SCP) Program, which has recently undergone a significant expansion. Leveraging the existing SCP Program to regulate PFAS in commercial and consumer products would not only address many of the problems with SB 903, but also more fully respond to the concerns expressed by Governor Newsom in vetoing Assembly Bill (AB) 2247 in September 2022. In his veto message, Governor Newsom recognized that, “[t]hrough the Safer Consumer Products Program, DTSC utilizes technical expertise and best available data to protect consumers and the environment,” but vetoed the measure due to its significant implementation costs. “With our state facing lower-than-expected revenues over the first few months of this fiscal year, it is important to remain disciplined when it comes to spending.”

Since 2022, California's fiscal struggles have worsened, with the Legislative Analyst’s Office, in February 2024, predicting a budget shortfall of \$73 billion for the 2024–25 fiscal year.

Collectively, we support the responsible production, use, and management of fluorinated substances, including regulatory requirements that are protective of human health and the environment, taking into consideration the diversity of physical and chemical properties and the corresponding environmental and health profiles of these substances, the critical and essential uses of products in which these substances are present, and the technical and economic feasibility of alternatives.

We remain committed to an on-going dialogue on chemical policy in California that is grounded in strong scientific principles, protective of human health and the environment, leverages existing state and federal regulatory requirements and resources, encourages innovation and economic development, and provides regulatory certainty to the business community.

For both fiscal and policy reasons, we urge that SB 903 be held in the Senate Appropriations Committee.