

BIFMA (Steve Kooy)

BIFMA's comments attached.

October 22, 2025

Harold Runnels Building
1190 St. Francis Dr. Suite N4050
Santa Fe, NM 87505

Dear Secretary Kenney,

Thank you for the opportunity to comment on the State of New Mexico's HB 212: An Act Relating to the Environment, Enacting the Per- and Polyfluoroalkyl Substances Protection Act.

BIFMA supports over 150 small businesses as well as many mid-size and large businesses impacted by this regulation. We are experiencing a proliferation of PFAS regulations at the state level, all slightly different, creating challenges for our members. In light of supply chain disruptions, economic concerns, and the complex network of growing regulations, we would like to provide written comments.

BIFMA and its members have a rich history of integrating sustainability criteria into their product design, sourcing, and manufacturing. Our industry's program, BIFMA LEVEL, is based on an ANSI accredited standard called ANSI/BIFMA e3 Sustainability Furniture Standard. The program is a 1st Choice Private Sector Standards/Ecolabel as listed on the EPA's greener products website (www.epa.gov/greenerproducts/furniture). The US EPA's Office of Chemical Safety and Pollution Prevention specifically lists LEVEL as a standard and ecolabel addressing PFAS ([link](#)). In short, we support healthy chemistry and understand the difficulties in working with supply chains to move forward.

Regarding the New Mexico PFAS Protection Act, BIFMA has the following concerns with the proposed program. Note: written in order they appear in the substitute bill not by priority.

- **Section 3. Prohibition on Products Containing Intentionally Added PFAS**
 - *D. Beginning January 1, 2028, a manufacturer shall not sell, offer for sale or distribute for sale in this state, directly or indirectly through intermediaries, the following products if that product contains an intentionally added per- or poly-fluoroalkyl substance: (9) upholstered furniture.*
 - **Comment: Section 3. D. prohibits fabric treatments containing PFAS by January 1, 2028. BIFMA supports this prohibition as manufacturers control the supply of fabric and fabric treatments on their products. The prohibition of non-fabric components containing PFAS including electronics, gear lubricants, and mechanical parts to reduce friction is exponentially more difficult to meet.** These parts are purchased from large industries which furniture manufacturers do not control nor influence given the low purchasing power. Alternatives, if presented by a supplier, must be evaluated to ensure quality and safety standards are met.

- To date, few if any alternatives are available that meet quality and safety requirements. BIFMA recommends the date to meet this prohibition align with other states and industries. States like Maine have passed legislation setting a prohibition date of January 1, 2032, which allows for multiple industries, including those much larger and influential, to implement no intentionally added PFAS alternatives for electronics, gear lubricants, and mechanical components designed to reduce friction. BIFMA recommends this date for non-fabric items within upholstered furniture.
 - In 2025, BIFMA worked with the Minnesota Pollution Control Agency (MPCA) and Minnesota legislators to successfully add legislation that does not prohibit the sale of a product “*that contains intentionally added PFAS only in electronic components or internal components*” (ref: [2025, 1st Special Session](#)). This modification to the existing law allowed upholstered furniture products such as task seating to remain compliant with Minnesota PFAS requirements.
- **Section 4. Rules.**
 - *B. (2) determine that a product containing intentionally added per- or poly-fluoroalkyl substances are a currently unavoidable use based on determinations made by other states.*
 - Consistent with the State of Minnesota’s determination referenced above, BIFMA recommends classifying electronic and internal components that do not directly contact users as an ‘unavoidable use’.
- **Section 5. Rules for Information Required**
 - **PFAS Concentration** – Laboratories are making progress in determining concentrations and chemical identification; however, the capabilities are extremely limited, expensive, and vary in quality. Furthermore, suppliers may change added PFAS for a variety of reasons (supply, quality, economics) which increases variability. BIFMA recommends a range-based disclosure for upholstered furniture.
 - **CAS level reporting** – Suppliers often will not disclose information due to confidentiality and/or variability in specific chemical added. BIFMA recommends a yes/no in terms of PFAS inclusion.
 - **Range** – BIFMA considers the range a better solution than exact numbers considering the proprietary nature of chemical mixtures.
 - **Data submittal tool** – We understand New Mexico may enter into an agreement with another state. We support this consideration given the multitude of databases, pending regulations, etc., at the state and federal level. Experience with other states or local jurisdictions suggests several meetings are often needed to ensure data provided meets the intent of the regulation. In most cases the form, if rigid, needed to be modified given the complexities of furniture.
 - **Duplicative reporting** – To ensure quality data we also seek to understand the multiple channels expected to report and ensure we remove, whenever possible, duplicative reporting (i.e. textile manufacturer, distributor/dealer, OEM, etc.). Please clarify who is the company responsible to support in the following

scenario: Manufacturer builds a product through a furniture dealer. Will the only person reporting be the furniture brand (manufacturer)? Not the textile company nor the dealer?

- **Report by Category Type** – BIFMA supports and appreciates the category approach given the diversity of product options and families within a category.

Thank you for the opportunity to provide these comments. BIFMA welcomes the opportunity to discuss this further and provide additional information. Please contact Steve Kooy, BIFMA Technical Director Health and Sustainability, at skooy@bifma.org or +1.616.591.9797.

On behalf of BIFMA,

A handwritten signature in black ink, appearing to read 'SKOY', with a long horizontal flourish extending to the right.

Steve Kooy
Technical Director Health and Sustainability
BIFMA