



May 3, 2021

Hon. Stacy Brenner, Senate Chair
Hon. Ralph Tucker, House Chair
Committee on Environment and Natural Resources
Cross Building, Room 216
100 State House Station
Augusta, ME 04333

RE: Oppose LD 960 and LD 1503

Dear Chairwoman Brenner, Chairman Tucker, and Members of the Committee:

On behalf of the Alliance for Automotive Innovation (Auto Innovators), I am writing to express our opposition to LD 960 and LD 1503, legislation designed to further regulate the use of Perfluoroalkyl and Polyfluoroalkyl (PFAS) substances contained in products sold within the state. Focused on creating a safe and transformative path for sustainable industry growth, the Auto Innovators represent the automakers responsible for producing nearly 99 percent of new cars and light trucks sold in the U.S. each year, as well as major Tier 1 suppliers and other automotive technology companies.

LD 960 and LD 1503 seek to address the use of products containing chemicals from the PFAS family. These dockets treat all PFAS chemistries as the same, when in the fact the most notable chemistries of concern – the longer chain PFAS chemicals – were phased out years ago and are no longer manufactured or imported into the U.S. These longer chain chemistries have been replaced with shorter chain PFAS chemicals that regulatory agencies such as the EPA have determined to be safer. Many industries have invested heavily in the research and development of these shorter chain technologies as replacements for the phased-out longer chain chemicals. As a class, PFAS chemicals are considered essential in many applications, because they are resistant to heat, water, and oil. One of their essential qualities – the ability to withstand environmental elements also means that these chemicals do not easily degrade. These characteristics have made PFAS critical to the manufacture of electronic devices, such as cell phones, tablets, and semi-conductors.

We recognize that there has been growing attention paid to products containing PFAS, largely as a result of some notable applications of the chemical that have directly entered public groundwater, including firefighting foams and sewage repurposed as fertilizers. However, this diverse family of important chemical substances is used throughout a wide cross-section of industries, including aerospace, energy, automotive, health care, construction, telecommunications, textiles, and electronics.

PFAS in Auto Industry

The expectations for today's automobiles are high, and the environments in which vehicles must operate are harsh. From the coldest days of winter to summer driving through Death Valley, consumers expect their car or truck to get them there safely. The PFAS family of chemicals has helped provide this resiliency. PFAS chemicals are used to make coatings and products that resist heat, oil, stains, grease, and water. Such qualities are imperative on systems throughout the vehicle. The heat resistance qualities of PFAS allow flexible fuel lines to

safely deliver gasoline into a hot engine without causing a fire. Similarly, heat resistance – along with protection from water intrusion – protects the integrity of wire looms and sensors on a vehicle that allow today's advanced safety systems to function. Brake fluids are hygroscopic, which means they absorb moisture from the atmosphere under normal humidity levels. PFAS coatings on brake lines keep brake systems operating at peak performance levels for extended periods. The ability of modern vehicles to emit drastically reduced emissions comes thanks to the chemical and heat resistant protections that PFAS provide to gaskets and O-rings, which keep engines tightly sealed. Likewise, PFAS coatings on cylinder heads and hoses increase fuel efficiency and reduce fugitive gasoline vapor emissions. It is not an exaggeration to say that nearly every automotive system depends on certain types of PFAS chemicals to provide a durable and reliable product to consumers.

None of this is to suggest that automakers are ignoring the possible impacts of the chemicals used to build today's vehicles. Automakers and their suppliers take such issues very seriously and are always looking for substitute compounds that can perform the same job with a lower environmental impact. Examples of such advancements are truly too long to list, but a representative sample can include the industry's move to water-based paints, the use of soy-based foams in car seats and dash boards, the move away from lead in wheel weights and copper in brake pads, and the ongoing process to substitute a variety of flame retardants while still meeting Federal Motor Vehicle Safety Standards regarding flammability. The industry has even recognized areas where it can reduce the use of PFAS chemicals in specific applications, as it has already ceased use of long chain PFAS products, such as those in carpeting. Despite all this, however, there are some uses that cannot yet be replicated by any other known chemical.

While PFAS chemicals are used throughout today's vehicle to ensure a safe and reliable product for consumers, that does not mean that each application brings with it an added threat to consumer health or groundwater. Automobiles today have among the highest recycling rates of any consumer product. When a vehicle reaches end of life, there is already in place an entire industry built around the ability to dismantle and resell or recycle just over 85% of the vehicle.

Considerations for LD 960 and LD 1503

While seemingly well-intentioned, there are aspects of the bills that may not have been fully considered when drafted. In particular, we wanted to highlight the massive nightmare that the reporting requirements contained in each bill would create and the unworkable regulatory framework these bills would create. As we interpret the bills, there would be an expectation on every manufacturer to report any product that contains any PFAS chemical, the "exact quantity" of chemical used, and any other information deemed necessary by the department.

The EPA has identified over 6,000 different chemicals within the PFAS family. Looking at the auto industry alone, today's vehicle has approximately 30,000 identifiable parts, sourced from hundreds (or thousands) of suppliers across the world. The obligation on each automaker to analyze and collect the exact usages of each of the over 6,000 PFAS chemicals for each of the 30,000 parts on a vehicle will be a monumental task, which then must be replicated for each model of vehicle sold and the numerous replacement parts developed to service and maintain vehicles throughout their lifetime. A process that will be conducted by each of the roughly two dozen automakers presently selling in the country.

And this is representative of only one industry. Serious thought should be given to the avalanche of paperwork that these bills could generate once spread across all sectors of the economy. Will the state be in any position to process and manage these filings in any meaningful manner? As the bills also consider an avenue to have

individual applications of a PFAS chemical evaluated by the department as being an “unavoidable use,” will the state be in any position to navigate and assess each request across these thousands upon thousands of filings?

It is also important to note that the federal government is actively working in this area. The U.S. Environmental Protection Agency (EPA) has its own Action Plan on PFAS and has started a few different initiatives listed in that link to address PFAS harms. See <https://www.epa.gov/pfas/epa-actions-address-pfas>. For instance, the EPA has promulgated rules that require notification and approval before long-chain PFAS could be used again, and more recently, in the past week, issued efforts that require additional facility-based reporting and limitations on low volume imports of PFAS chemicals. EPA’s plan is comprehensive and likely more than covers the concerns these bills hope to address.

If the Committee believes it is necessary to legislate in this area, we would strongly caution the legislation to be much more highly targeted, to avoid unintended disruptions in the supply chain or potential impacts on interstate commerce. First, each PFAS chemical should be regulated independently, not as a group. PFAS have a wide variety of different properties and uses. Due to this variation, it is inappropriate to regulate all PFAS as a single group. Instead, each individual chemistry should be regulated based on the specific risks it poses and risks associated with one member of the class should not be attributed to other members of the PFAS class without clear scientific justification. Beyond this, to best protect human health and the environment, a risk-based approach should focus agency resources on the highest priorities based on actual environmental, health, and safety risk of particular chemistries, not just the mere presence of a substance.

Auto Innovators and our member companies take the concerns of legacy chemicals seriously, and we support state efforts to ensure clean water, air and soil for your citizens. These bills, however, go further than necessary with their overly broad reach and all-inclusive approach. Quite frankly, these bills will result in an unworkable approach and likely negatively impact the ability of businesses to operate and sell their products in your state. Given the lack of feasible alternatives and the critical uses of many PFAS substances of lesser concern than long chain PFAS, Auto Innovators recommends that Maine work to significantly narrow the scope of the bill, realign it to complement ongoing EPA activities, and exempt motor vehicles and their replacement parts from the scope.

Thank you for your consideration of the Auto Innovators’ position. Please do not hesitate to contact me, should I be able to provide any additional information.

Sincerely,



Wayne Weikel
Senior Director, State Affairs

cc: Members, Joint Committee on Environment and Natural Resources