

March 15, 2023

The Honorable Matt Klein
Chair
Commerce and Consumer Protection
Committee
Minnesota Senate
2105 Minnesota Senate Bldg.
St. Paul, MN 55155

The Honorable Judy Seeberger
Vice Chair
Commerce and Consumer Protection
Committee
Minnesota Senate
2105 Minnesota Senate Bldg.
St. Paul, MN 55155

RE: SF 834 – A bill for an act relating to environment; prohibiting PFAS in certain products; requiring disclosure; authorizing rulemaking; proposing coding for new law in Minnesota Statutes, chapter 116.

Chair Klein, Vice Chair Seeberger, and Members of the Commerce and Consumer Protection Committee:

On behalf of the American Apparel & Footwear Association (AAFA) and the companies listed in the table below, I am writing to provide testimony on SF 834 – A bill for an act relating to environment; prohibiting PFAS in certain products; requiring disclosure; authorizing rulemaking; proposing coding for new law in Minnesota Statutes, chapter 116.

AAFA is the national trade association representing apparel, footwear and other sewn products companies, and their suppliers, which compete in the global market. Representing more than 1,000 world famous name brands, AAFA is the trusted public policy and political voice of the apparel and footwear industry, its management and shareholders, its more than three million U.S. workers, and its contribution of \$470 billion in annual U.S. retail sales. AAFA approaches all of its work through the lens of purpose-driven leadership in a manner that supports each member's ability to build and sustain inclusive and diverse cultures, meet and advance ESG goals, and draw upon the latest technology.

We deploy our association's extensive expertise in trade, brand protection, supply chain management, and manufacturing to help our members navigate the complex regulatory environment, lower costs, and grow their sustainability and product safety efforts. With our members engaged in the production and sale of clothing and footwear, we are on the front lines of product safety. It is our members who design and execute the quality and compliance programs that stitch product safety into every garment and shoe we make. To support our members in this effort, AAFA has taken the lead in educating our industry through alerts, webinars, and conferences on the development, interpretation, and implementation of product safety standards and regulations.

AAFA and our members are proud advocates for regulatory requirements that can effectively protect human health and the environment. Regulation plays a critical role in furthering our industry's efforts. But only if regulations are designed properly, serve their purpose, and are properly enforced. That is why we recently launched the [THREADS Sustainability and Social Responsibility Protocol](#). We believe that the *THREADS Protocol* will speed up the development of policies that are effective and catalyze meaningful progress. *THREADS* calls for policies that are:

- **Transparently Developed and Enforced**
- **Harmonized Across Jurisdictions and Industries**
- **Realistic in Terms of Timelines**
- **Enforceable**
- **Adjustable**
- **Designed for Success**
- **Science-Based**

Although many of our members routinely exceed regulatory requirements and are already in the process of phasing out the use of intentionally added PFAS, viewing SF 834 through the lens of *THREADS*, we have some concerns with the bill as currently drafted.

Harmonizing regulations and enforcement ensures a common approach and cost-effective implementation, greatly enhancing the likelihood that the regulations will achieve their stated goals. SF 834's reporting requirements appear to mirror requirements passed in Maine. Even when identical legislation passes in different states, differences in interpretation and enforcement create a confusing patchwork of requirements that complicate compliance efforts and divert resources away from innovative efforts to further enhance product safety. We strongly encourage the Minnesota Senate to wait until Maine has finalized its implementing regulations to provide opportunity for full harmonization.

Further, Maine's current reporting requirements do not reflect the current science around identifying PFAS in consumer goods and, at present, neither do SF 834's. For instance, requiring reporting of individual PFAS by Chemical Abstract Service numbers (CAS #s) does not make sense for the entire class of PFAS chemicals because a very small fraction of the 12,000+ potential PFAS chemicals in existence have CAS #s assigned. Further, testing for PFAS chemicals in consumer products is complex and very much still in development. Currently, test methods exist for fewer than 100 of the 12,000+ PFAS chemicals. It is just not possible for manufacturers to identify each individual PFAS chemical in a given item.

Instead, science-based requirements should establish a Total Organic Fluorine (TOF) testing threshold (as adopted by California in their PFAS restriction bills [AB 1817](#) and [AB 652](#) and included in our most recent [Restricted Substances List](#)) and require reporting on apparel, footwear, and accessories with a result of 100ppm TOF or greater. TOF tests capture the presence of all PFAS, but do not identify which individual PFAS are present in a good. A TOF result of less than 100ppm demonstrates the PFAS found in the item were not intentionally added, because the presence of PFAS below 100ppm would not provide the item any characteristics associated with intentionally added PFAS (e.g. water/stain

resistance or chemical/oil repellency). The establishment of a testing threshold is also necessary because PFAS contamination is widespread in the environment. Virtually any item tested will have some level of PFAS.

We have made Maine aware of these issues and continue to work with regulators there on these and other concerns related to the reporting requirements they have enacted. We would be happy to discuss our concerns in more depth with you as the industry looks for policies that meet the THREADS Protocol requirements.

In the interim, we again urge Minnesota to wait until these concerns are addressed with Maine. Then, if legislation is adopted in Minnesota, it will be harmonized and will have benefitted from industry input at the outset so that it will achieve its goal of providing useful information about the sources of intentionally added PFAS to the people of Minnesota.

Please note that, while important, the discussions with Maine have siphoned time and resources away from continuing industry efforts to identify PFAS-alternatives and test those alternatives for performance and safety. Once safe and effective alternatives are identified, brands must work with their entire supply chains to transition to new technologies and validate that suppliers understand the new requirements. Dedicating resources to attempting to collect and package information required to meet varied reporting requirements takes away from these efforts.

Finally, while we understand why there is urgency in better understanding the sources of PFAS contamination, we caution that moving forward now would not necessarily provide information about PFAS sources any sooner. Maine moved too quickly and has had to grant extensions to more than 1,900 companies as it sorts through issues with the requirements and as it builds capacity to take the mandated reports. Minnesota can benefit from the work already underway in Maine without creating additional burdens for industry or its own regulators by waiting for Maine to finalize requirements.

We look forward to continuing to work with Minnesota on the regulation of substances in consumer products for the benefit of consumer product safety and public health. In the meantime, our members continue to design and execute the quality and compliance programs that emphasize product safety for every individual who steps into our apparel and footwear products.

Thank you for your consideration of this request. Please contact Chelsea Murtha of my staff at cmurtha@aafaglobal.org if you have any questions or would like additional information.

Sincerely,





Advocacy that fits.

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Stephen Lamar
President & CEO
American Apparel & Footwear Association