

ESSB 6413 - H AMD TO ENVI COMM AMD (H-4848.1/18) **1204**
By Representative Taylor

NOT ADOPTED 02/27/2018

1 Beginning on page 1, after line 25 of the amendment, strike all
2 material through "70.105D.070." on page 3, line 25, and insert the
3 following:

4 "(7) "Safer alternative" means an alternative substance or
5 chemical, demonstrated by an alternatives assessment, that meets
6 improved hazard and exposure considerations and can be practicably
7 and economically substituted for the original chemical.

8 NEW SECTION. **Sec. 2.** (1) To determine whether safer
9 alternatives exist for class B firefighting foam to which PFAS
10 chemicals have been intentionally added, the department must conduct
11 an alternatives assessment as part of the PFAS chemical action plan
12 that:

13 (a) Evaluates less toxic chemicals and nonchemical alternatives
14 that can be used as replacements;

15 (b) Follows the guidelines for alternatives assessments issued by
16 the interstate chemicals clearinghouse; and

17 (c) Includes, at a minimum, an evaluation of chemical hazards,
18 exposure, performance, cost, and availability.

19 (2) The alternatives assessment required in subsection (1) of
20 this section and any safer alternative determinations must be
21 externally peer-reviewed.

22 (3) By December 1, 2019, the department must publish its findings
23 in the Washington State Register on whether safer alternatives exist
24 and are available to class B firefighting foam to which PFAS
25 chemicals have been intentionally added. By that date, the department
26 must also submit a report with the findings and the feedback from the
27 peer review of the department's alternatives assessment to the
28 appropriate committees of the legislature.

29 (4) The department should bring forward agency request
30 legislation suggesting a ban when the department has identified
31 multiple, readily available, economical, safer alternatives to class

1 B firefighting foam to which PFAS chemicals have been intentionally
2 added.

3 (5) The restrictions recommended in subsection (4) of this
4 section may not apply to any manufacture, sale, or distribution of
5 class B firefighting foam where the inclusion of PFAS chemicals are
6 required by federal law, including but not limited to the
7 requirements of 14 C.F.R. 139.317, as that section existed as of
8 January 1, 2018. In the event that applicable federal regulations
9 change after January 1, 2018, to allow the use of alternative
10 firefighting agents that do not contain PFAS chemicals, then the
11 department may adopt rules that restrict PFAS chemicals for the
12 manufacture, sale, and distribution of firefighting foam for uses
13 that are addressed by the federal regulation.

14 (6) The restrictions recommended in subsection (4) of this
15 section may not apply to any manufacture, sale, or distribution of
16 class B firefighting foam to a person for use at a terminal, as
17 defined in RCW 82.23A.010, operated by the person or an oil refinery
18 operated by the person.

19 NEW SECTION. **Sec. 3.** (1) The state fire marshal must coordinate
20 with local governments and federal agencies that provide firefighting
21 services to identify current uses of class B firefighting foam,
22 including current uses of class B firefighting foam containing
23 intentionally added PFAS chemicals. Furthermore, in consultation with
24 local governments, federal and state agencies that provide
25 firefighting services, and manufacturers of class B firefighting
26 foam, the state fire marshal must identify a list of class B
27 firefighting foams that are safe, readily available, cost
28 competitive, and achieve comparable performance specifications to
29 class B firefighting foam that contains intentionally added PFAS
30 chemicals.

31 (2) The state fire marshal must prepare recommendations, based on
32 peer-reviewed science, that balance the need to use class B
33 firefighting foam in order to protect community health and safety
34 from fires against concerns about the impacts to community health and
35 safety that may be associated with the use of certain class B
36 firefighting foams. These recommendations must be prepared with
37 assistance from the department, the department of health, a local
38 fire chief, preferably from a jurisdiction that uses class B
39 firefighting foam, and a representative of a statewide organization

1 representing firefighters who has knowledge of and experience using
2 class B firefighting foam. The recommendations may consider the
3 results of the alternatives assessment completed in section 2 of this
4 act.

5 (3) The state fire marshal must submit a report to the
6 legislature consistent with RCW 43.01.036 by January 1, 2020. The
7 report must include a summary of:

8 (a) The current uses of class B firefighting foam and alternative
9 products identified in subsection (1) of this section;

10 (b) The recommendations in subsection (2) of this section;

11 (c) The steps taken by state agencies, local governments, and
12 federal agencies that provide firefighting services to identify safer
13 alternatives to class B firefighting foam that contains PFAS
14 chemicals, and to reduce the use of firefighting foam containing PFAS
15 chemicals and to reduce environmental and firefighter exposure to
16 PFAS chemicals; and

17 (d) Recommendations for additional legislative or policy changes
18 to be implemented by the state.

19 NEW SECTION. **Sec. 4.** (1) The state fire marshal, in
20 consultation with the department, department of health, and
21 manufacturers of class B firefighting foam, must provide assistance
22 to local governments and other entities that perform firefighting
23 functions with the goal to:

24 (a) Reduce the use of class B firefighting foams that contain
25 intentionally added PFAS chemicals and for which safer, readily
26 available, and cost competitive alternatives exist that achieve
27 comparable performance specifications; and

28 (b) Adopt practices that reduce the exposure of firefighters and
29 releases into the environment of class B firefighting foams.

30 (2) When planning for organizational fire response capabilities
31 or responding to a fire, the local government, federal or state
32 agency, or other entity providing firefighting services retains the
33 discretion to determine, based on organizational plans or emergent
34 circumstances, whether the use of class B firefighting foam is
35 appropriate, and what type of class B firefighting foam will be most
36 effective or practical to use.

1 (3) Nothing in this chapter provides the authority for the state
2 fire marshal or any other state agency to restrict the use of
3 particular types of class B firefighting foam."

4 Renumber the remaining section consecutively, correct any
5 internal references accordingly, and correct the title.

6 On page 3, line 26 of the amendment, after "through" strike "6"
7 and insert "4"

EFFECT: Eliminates the restrictions on the manufacture, sale, and distribution of class B firefighting foam containing intentionally-added PFAS chemicals. Eliminates the disclosure requirements associated with the sale of firefighting personal protective equipment containing PFAS chemicals. Eliminates the direction to the department of ecology to work with local governments and state agencies to avoid purchasing firefighting foam and personal protective equipment that do not contain PFAS chemicals. Requires the Department of Ecology to complete a peer-reviewed alternatives assessment for class B firefighting foam containing intentionally-added PFAS chemicals. Requires the results of the alternatives assessment to be published in the Washington State Register by December 1, 2019, by which date a report must also be submitted to the Legislature that includes the peer-reviewed feedback received on the alternatives assessment. Encourages the Department of Ecology to bring agency request legislation suggesting a ban on PFAS chemicals in class B firefighting foam once multiple, readily-available, economical, safer alternatives to PFAS chemicals in class B firefighting foam have been identified. Prohibits the agency request legislation from recommending restrictions where the inclusion of PFAS chemicals in firefighting foam is required by federal law or from recommending restrictions on manufacture, sale, and distribution to oil refineries and terminals of class B firefighting foam containing PFAS chemicals. Directs the state fire marshal to identify current uses of class B firefighting foam that contains intentionally added PFAS chemicals, and to identify readily available, safer alternatives that achieve comparable performance specifications. Directs the state fire marshal, in consultation with certain state agencies and other entities, to develop recommendations to balance the protection of communities from fire with health impact concerns. Requires the state fire marshal to submit a report to the legislature by January 1, 2020, summarizing its work in identifying class B firefighting foam uses and alternatives, alongside recommendations for additional policy changes, taking into consideration the results of the Department of Ecology's alternatives assessment. Directs the state fire marshal to provide assistance to state agencies and local governments to avoid using PFAS chemicals containing firefighting foams if there exist readily available, safer alternatives that meet performance specifications. Prohibits the state fire marshal or other state agencies from restricting the allowable types of firefighting foam that may be used, and authorizes entities providing firefighting services to determine whether and which type of class B firefighting

foam is appropriate for use organizationally or in response to a particular fire.

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