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SENATE BILL 6413

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State of Washington

65th Legislature

2018 Regular Session

By Senators Van De Wege, Wellman, Palumbo, Billig, Hunt, Kuderer, Saldaña, and Chase

Read first time 01/16/18. Referred to Committee on Energy, Environment & Technology.

1 AN ACT Relating to reducing the use of certain toxic chemicals in  
2 firefighting activities; adding a new chapter to Title 70 RCW; and  
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires  
7 otherwise.

8 (1) "Class B firefighting foam" means foams designed for  
9 flammable liquid fires.

10 (2) "Department" means the department of ecology.

11 (3) "Firefighting personal protective equipment" means any  
12 clothing designed, intended, or marketed to be worn by firefighting  
13 personnel in the performance of their duties, designed with the  
14 intent for the use in fire and rescue activities, including jackets,  
15 pants, shoes, gloves, helmets, and respiratory equipment.

16 (4) "Local governments" includes any county, city, town, fire  
17 district, regional fire district, or other special purpose district  
18 that provides firefighting services.

19 (5) "Manufacturer" includes any person, firm, association,  
20 partnership, corporation, governmental entity, organization, joint  
21 venture, importer, or domestic distributor of firefighting agents or

1 firefighting equipment. For the purposes of this subsection,  
2 "importer" means the owner of the product.

3 (6) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS  
4 chemicals" means, for the purposes of firefighting agents and  
5 firefighting equipment, a class of fluorinated organic chemicals  
6 containing at least one fully fluorinated carbon atom.

7 NEW SECTION. **Sec. 2.** (1) Beginning July 1, 2020, a manufacturer  
8 of class B firefighting foam may not manufacture, knowingly sell,  
9 offer for sale, distribute for sale, or distribute for use in this  
10 state class B firefighting foam to which PFAS chemicals have been  
11 intentionally added.

12 (2) The restrictions in subsection (1) of this section do not  
13 apply to any sale or use of class B firefighting foam where the  
14 inclusion of PFAS chemicals are required by federal law, including  
15 but not limited to the requirements of 14 C.F.R. 139.317, as that  
16 section existed as of January 1, 2018. In the event that applicable  
17 federal regulations change after January 1, 2018, to allow the use of  
18 alternative firefighting agents that do not contain PFAS chemicals,  
19 then the department may adopt rules for the sales and uses of  
20 firefighting foam that are addressed by the federal regulation that  
21 restrict the use of firefighting foam that contains PFAS chemicals.

22 NEW SECTION. **Sec. 3.** (1) Beginning July 1, 2018, a manufacturer  
23 or other person that sells firefighting personal protective equipment  
24 to any person, local government, or state agency must provide written  
25 notice to the purchaser at the time of sale if the firefighting  
26 personal protective equipment contains PFAS chemicals. The written  
27 notice must include a statement that the firefighting personal  
28 protective equipment contains PFAS chemicals.

29 (2) The manufacturer or person selling firefighting personal  
30 protective equipment and the purchaser of the equipment must retain  
31 the notice on file for at least three years from the date of the  
32 transaction. Upon the request of the department, a person,  
33 manufacturer, or purchaser must furnish the notice, or written  
34 copies, and associated sales documentation to the department within  
35 sixty days.

36 NEW SECTION. **Sec. 4.** (1) A manufacturer of class B firefighting  
37 foam restricted under section 3 of this act must notify, in writing,

1 persons that sell the manufacturer's products in this state about the  
2 provisions of this chapter no less than one year prior to the  
3 effective date of the restrictions.

4 (2) A manufacturer that produces, sells, or distributes a class B  
5 firefighting foam prohibited under section 3 of this act shall recall  
6 the product and reimburse the retailer or any other purchaser for the  
7 product.

8 NEW SECTION. **Sec. 5.** (1) The department may request a  
9 certificate of compliance from a manufacturer of class B firefighting  
10 foam or firefighting personal protective equipment. A certificate of  
11 compliance attests that a manufacturer's product or products meets  
12 the requirements of this chapter.

13 (2) The department shall assist the department of enterprise  
14 services, other state agencies, fire protection districts, and other  
15 local governments to avoid purchasing or using firefighting agents  
16 containing PFAS chemicals, as required in section 2 of this act. The  
17 department shall assist the department of enterprise services, other  
18 state agencies, fire protection districts, and other local  
19 governments to give priority and preference to the purchase of  
20 firefighting personal protective equipment that does not contain PFAS  
21 chemicals.

22 NEW SECTION. **Sec. 6.** A manufacturer of class B firefighting  
23 foam in violation of section 2 or 4 of this act, or a person in  
24 violation of section 3 of this act, is subject to a civil penalty not  
25 to exceed five thousand dollars for each violation in the case of a  
26 first offense. Manufacturers or persons that are repeat violators are  
27 subject to a civil penalty not to exceed ten thousand dollars for  
28 each repeat offense. Penalties collected under this section must be  
29 deposited in the state toxics control account created in RCW  
30 70.105D.070.

31 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act  
32 constitute a new chapter in Title 70 RCW.

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