

ESSB 6413 - H COMM AMD
By Committee on Environment

ADOPTED AND ENGROSSED 2/27/18

1 Strike everything after the enacting clause and insert the
2 following:

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

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

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

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

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

17 (5) "Manufacturer" includes any person, firm, association,
18 partnership, corporation, organization, joint venture, importer, or
19 domestic distributor of firefighting agents or firefighting
20 equipment. For the purposes of this subsection, "importer" means the
21 owner of the product.

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

26 (7) "Chemical plant" has the same meaning as in WAC 296-24-33001,
27 as that section existed as of January 1, 2018.

28 NEW SECTION. **Sec. 2.** Beginning July 1, 2018, a person, local
29 government, or state agency may not discharge or otherwise use for
30 training purposes class B firefighting foam that contains
31 intentionally added PFAS chemicals.

1 NEW SECTION. **Sec. 3.** (1) Beginning July 1, 2020, a manufacturer
2 of class B firefighting foam may not manufacture, knowingly sell,
3 offer for sale, distribute for sale, or distribute for use in this
4 state class B firefighting foam to which PFAS chemicals have been
5 intentionally added.

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

17 (3) The restrictions in subsection (1) of this section do not
18 apply to any manufacture, sale, or distribution of class B
19 firefighting foam to a person for use at a terminal, as defined in
20 RCW 82.23A.010, operated by the person or an oil refinery operated by
21 the person.

22 (4) The restrictions in subsection (1) of this section do not
23 apply to any manufacture, sale, or distribution of class B
24 firefighting foam to a person for use at a chemical plant operated by
25 the person.

26 NEW SECTION. **Sec. 4.** (1) Beginning July 1, 2018, a manufacturer
27 or other person that sells firefighting personal protective equipment
28 to any person, local government, or state agency must provide written
29 notice to the purchaser at the time of sale if the firefighting
30 personal protective equipment contains PFAS chemicals. The written
31 notice must include a statement that the firefighting personal
32 protective equipment contains PFAS chemicals and the reason PFAS
33 chemicals are added to the equipment.

34 (2) The manufacturer or person selling firefighting personal
35 protective equipment and the purchaser of the equipment must retain
36 the notice on file for at least three years from the date of the
37 transaction. Upon the request of the department, a person,
38 manufacturer, or purchaser must furnish the notice, or written

1 copies, and associated sales documentation to the department within
2 sixty days.

3 NEW SECTION. **Sec. 5.** (1) A manufacturer of class B firefighting
4 foam restricted under section 3 of this act must notify, in writing,
5 persons that sell the manufacturer's products in this state about the
6 provisions of this chapter no less than one year prior to the
7 effective date of the restrictions.

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

12 NEW SECTION. **Sec. 6.** (1) The department may request a
13 certificate of compliance from a manufacturer of class B firefighting
14 foam or firefighting personal protective equipment. A certificate of
15 compliance attests that a manufacturer's product or products meets
16 the requirements of this chapter.

17 (2) Beginning July 1, 2018, the department shall assist the
18 department of enterprise services, other state agencies, fire
19 protection districts, and other local governments to avoid purchasing
20 or using class B firefighting foams to which PFAS chemicals have been
21 intentionally added. The department shall assist the department of
22 enterprise services, other state agencies, fire protection districts,
23 and other local governments to give priority and preference to the
24 purchase of firefighting personal protective equipment that does not
25 contain PFAS chemicals.

26 NEW SECTION. **Sec. 7.** A manufacturer of class B firefighting
27 foam in violation of section 3 or 5 of this act or a person in
28 violation of section 2 or 4 of this act is subject to a civil penalty
29 not to exceed five thousand dollars for each violation in the case of
30 a first offense. Manufacturers, local governments, or persons that
31 are repeat violators are subject to a civil penalty not to exceed ten
32 thousand dollars for each repeat offense. Penalties collected under
33 this section must be deposited in the state toxics control account
34 created in RCW 70.105D.070.

1 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act
2 constitute a new chapter in Title 70 RCW."

3 Correct the title.

--- **END** ---