**6413-S.E AMH TAYL H5043.2 - NOT FOR FLOOR USE**

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

By Representative Taylor

**NOT ADOPTED 02/27/2018**

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

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

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

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

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

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

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

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

(4) The department should bring forward agency request legislation suggesting a ban when the department has identified multiple, readily available, economical, safer alternatives to class B firefighting foam to which PFAS chemicals have been intentionally added.

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

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

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

(2) The state fire marshal must prepare recommendations, based on peer-reviewed science, that balance the need to use class B firefighting foam in order to protect community health and safety from fires against concerns about the impacts to community health and safety that may be associated with the use of certain class B firefighting foams. These recommendations must be prepared with assistance from the department, the department of health, a local fire chief, preferably from a jurisdiction that uses class B firefighting foam, and a representative of a statewide organization representing firefighters who has knowledge of and experience using class B firefighting foam. The recommendations may consider the results of the alternatives assessment completed in section 2 of this act.

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

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

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

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

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

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

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

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

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

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

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

On page 3, line 26 of the amendment, after "through" strike "6" 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.