
SUBSTITUTE HOUSE BILL 2793

State of Washington

65th Legislature

2018 Regular Session

By House Environment (originally sponsored by Representatives Peterson, Doglio, Fitzgibbon, Riccelli, Bergquist, Tharinger, McBride, and Pollet)

READ FIRST TIME 02/02/18.

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 protection authority, or other special
18 purpose district that provides firefighting services.

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

1 equipment. For the purposes of this subsection, "importer" means the
2 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 manufacture, sale, or distribution of class B
14 firefighting foam where the inclusion of PFAS chemicals are required
15 by federal law, including but not limited to the requirements of
16 C.F.R. 139.317, as that section existed as of January 1, 2018. In the
17 event that applicable federal regulations change after January 1,
18 2018, to allow the use of alternative firefighting agents that do not
19 contain PFAS chemicals, then the department may adopt rules that
20 restrict PFAS chemicals for the manufacture, sale, and distribution
21 of firefighting foam for uses that are addressed by the federal
22 regulation.

23 (3) Beginning July 1, 2018, a person, local government, or state
24 agency may not discharge or otherwise use for training purposes class
25 B firefighting foam that contains intentionally added PFAS chemicals.

26 NEW SECTION. **Sec. 3.** (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.

33 (2) The manufacturer or person selling firefighting personal
34 protective equipment and the purchaser of the equipment must retain
35 the notice on file for at least three years from the date of the
36 transaction. Upon the request of the department, a person,
37 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. 4.** (1) A manufacturer of class B firefighting
4 foam restricted under section 2 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 2 of this act shall recall
10 the product and reimburse the retailer or any other purchaser for the
11 product.

12 NEW SECTION. **Sec. 5.** (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, consistent with section 2 of this act. The
22 department shall assist the department of enterprise services, other
23 state agencies, fire protection districts, and other local
24 governments to give priority and preference to the purchase of
25 firefighting personal protective equipment that does not contain PFAS
26 chemicals.

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

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

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