**2265-S AMH DOGL H4929.1 - NOT FOR FLOOR USE**

**SHB 2265 (Corrected Copy)** - H AMD **1256**

By Representative Doglio

**ADOPTED AS AMENDED 02/16/2020**

Strike everything after the enacting clause and insert the following:

"**Sec.**  RCW 70.75A.020 and 2018 c 286 s 3 are each amended to read as follows:

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

(2)(a) The restrictions in subsection (1) of this section do 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.

(b) In the event that the requirements of 14 C.F.R. Sec. 139.317 or other 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~~)) as of the effective date of that change, the department shall publish a finding to that effect in the Washington State Register and submit this finding to the appropriate committees of the house of representatives and the senate. The department's publication regarding a change in the federal regulations must be specific with respect to the involved federal agency and use and, if identified by the federal agency, the alternative firefighting agent. Twenty-four months after publication in the Washington State Register, the restrictions of subsection (1) of this section apply to the manufacture, sale, and distribution of class B firefighting foam that contains intentionally added PFAS chemicals for the uses specified in 14 C.F.R. Sec. 139.317 or other applicable federal regulations.

(3)(a) The restrictions in subsection (1) of this section do not apply until January 1, 2024, 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, a chemical plant operated by the person, or an oil refinery operated by the person.

(b) A person who operates a chemical plant, refinery, or terminal may apply to the department for a waiver. A waiver may only be for two years and may only be extended by the department for one additional two-year term. The department may grant a waiver if the applicant provides:

(i) Clear and convincing evidence that there is no commercially available replacement that does not contain intentionally added PFAS chemicals that is capable of suppressing a large atmospheric storage tank fire;

(ii) Information on the amount of firefighting foam containing intentionally added PFAS chemicals stored, used, or released on site on an annual basis;

(iii) A report on the progress being made by the operator of the chemical plant, terminal, or refinery to transition to use of firefighting foam at the facility that does not contain intentionally added PFAS chemicals; and

(iv) An explanation of how all releases of firefighting foam will be fully contained on site and how existing containment measures will not allow firewater, wastewater, runoff, and other wastes to be released to the environment including, but not limited to, soils, groundwater, waterways, and stormwater.

(c) Nothing in this section prohibits an oil refinery or terminal from providing class B firefighting foam in the form of mutual aid to another refinery or terminal in the event of a class B fire.

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

Correct the title.

EFFECT: Delays the effective date on the manufacture, sale, or distribution of PFAS firefighting foam for use at airports subject to Federal Aviation Administration regulations or for uses subject to other federal regulations that require the use of PFAS foam until two years after the Department of Ecology determines that federal law has changed to newly allow the use of alternatives to PFAS firefighting foam. Authorizes operators of chemical plants to apply to the Department of Ecology for a two-year waiver from PFAS foam restrictions under the same waiver criteria that apply to operators of oil terminals and refineries.