

ESSB 6413 - H COMM AMD
By Committee on Environment

ADOPTED AS AMENDED 02/27/2018

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

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

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

17 NEW SECTION. **Sec. 3.** (1) Beginning July 1, 2018, a manufacturer
18 or other person that sells firefighting personal protective equipment
19 to any person, local government, or state agency must provide written
20 notice to the purchaser at the time of sale if the firefighting
21 personal protective equipment contains PFAS chemicals. The written
22 notice must include a statement that the firefighting personal
23 protective equipment contains PFAS chemicals and the reason PFAS
24 chemicals are added to the equipment.

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

32 NEW SECTION. **Sec. 4.** (1) A manufacturer of class B firefighting
33 foam restricted under section 2 of this act must notify, in writing,
34 persons that sell the manufacturer's products in this state about the
35 provisions of this chapter no less than one year prior to the
36 effective date of the restrictions.

37 (2) A manufacturer that produces, sells, or distributes a class B
38 firefighting foam prohibited under section 2 of this act shall recall

1 the product and reimburse the retailer or any other purchaser for the
2 product.

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

8 (2) Beginning July 1, 2018, the department shall assist the
9 department of enterprise services, other state agencies, fire
10 protection districts, and other local governments to avoid purchasing
11 or using class B firefighting foams to which PFAS chemicals have been
12 intentionally added. The department shall assist the department of
13 enterprise services, other state agencies, fire protection districts,
14 and other local governments to give priority and preference to the
15 purchase of firefighting personal protective equipment that does not
16 contain PFAS chemicals.

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

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

28 Correct the title.

EFFECT: Exempts the manufacture, sale, and distribution of class B firefighting foam containing PFAS chemicals to persons operating oil refineries and oil terminals for use at those facilities. Specifies a July 1, 2018, start date for the Department of Ecology to begin helping state agencies and local governments avoid the purchase of class B firefighting foam and firefighting personal protective equipment containing intentionally added PFAS chemicals. Makes technical corrections, including clarifying that restrictions on the manufacture, sale, and distribution of firefighting foams apply only

to class B firefighting foams to which PFAS chemicals have been intentionally added.

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