

**SHB 2265 (Corrected Copy) - H AMD 1256**  
By Representative Doglio

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

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

3 "Sec. 1. RCW 70.75A.020 and 2018 c 286 s 3 are each amended to  
4 read as follows:

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

10 (2) (a) The restrictions in subsection (1) of this section do not  
11 apply to any manufacture, sale, or distribution of class B  
12 firefighting foam where the inclusion of PFAS chemicals are required  
13 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.

15 (b) In the event that the requirements of 14 C.F.R. Sec. 139.317  
16 or other applicable federal regulations change after January 1, 2018,  
17 to allow the use of alternative firefighting agents that do not  
18 contain PFAS chemicals, then ~~((the department may adopt rules that~~  
19 ~~restrict PFAS chemicals for the manufacture, sale, and distribution~~  
20 ~~of firefighting foam for uses that are addressed by the federal~~  
21 ~~regulation))~~ as of the effective date of that change, the department  
22 shall publish a finding to that effect in the Washington State  
23 Register and submit this finding to the appropriate committees of the  
24 house of representatives and the senate. The department's publication  
25 regarding a change in the federal regulations must be specific with  
26 respect to the involved federal agency and use and, if identified by  
27 the federal agency, the alternative firefighting agent. Twenty-four  
28 months after publication in the Washington State Register, the  
29 restrictions of subsection (1) of this section apply to the  
30 manufacture, sale, and distribution of class B firefighting foam that  
31 contains intentionally added PFAS chemicals for the uses specified in  
32 14 C.F.R. Sec. 139.317 or other applicable federal regulations.

1 (3)(a) The restrictions in subsection (1) of this section do not  
2 apply until January 1, 2024, to any manufacture, sale, or  
3 distribution of class B firefighting foam to a person for use at a  
4 terminal, as defined in RCW 82.23A.010, operated by the person, a  
5 chemical plant operated by the person, or an oil refinery operated by  
6 the person.

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

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

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

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

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

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

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

35 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.

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