

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2265

66th Legislature
2020 Regular Session

Passed by the House February 16, 2020
Yeas 92 Nays 4

**Speaker of the House of
Representatives**

Passed by the Senate March 5, 2020
Yeas 36 Nays 12

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2265** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

1 ~~of firefighting foam for uses that are addressed by the federal~~
2 ~~regulation)) as of the effective date of that change, the department~~
3 ~~shall publish a finding to that effect in the Washington State~~
4 ~~Register and submit this finding to the appropriate committees of the~~
5 ~~house of representatives and the senate. The department's publication~~
6 ~~regarding a change in the federal regulations must be specific with~~
7 ~~respect to the involved federal agency and use and, if identified by~~
8 ~~the federal agency, the alternative firefighting agent. Two years~~
9 ~~after publication in the Washington State Register, the restrictions~~
10 ~~of subsection (1) of this section apply to the manufacture, sale, and~~
11 ~~distribution of class B firefighting foam that contains intentionally~~
12 ~~added PFAS chemicals for the uses specified in 14 C.F.R. Sec. 139.317~~
13 ~~or other applicable federal regulations. However, the restrictions of~~
14 ~~subsection (1) of this section do not take effect for an additional~~
15 ~~year if all of the airports in Washington certificated under 14~~
16 ~~C.F.R. Sec. 139 have not been able to secure alternative firefighting~~
17 ~~agents and any necessary infrastructure to apply the agent in order~~
18 ~~to meet certification requirements, as determined by the department.~~
19 ~~Eighteen months after the department's original publication in the~~
20 ~~Washington State Register, each section 139 licensed airport shall~~
21 ~~report to the department on the airport's status with respect to~~
22 ~~obtaining alternative firefighting agents approved by the federal~~
23 ~~aviation administration and any necessary infrastructure. The~~
24 ~~department must publish a second notice delaying the restrictions~~
25 ~~under subsection (1) of this section for an additional year if the~~
26 ~~department has determined that any section 139 airport is unable to~~
27 ~~secure alternative firefighting agents without intentionally added~~
28 ~~PFAS chemicals or infrastructure to meet certification requirements~~
29 ~~because the agents or infrastructure are not commercially available.~~

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

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

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

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

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

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

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

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

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