

SENATE BILL NO. 121

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY SENATORS KIEHL, Gray-Jackson, Kawasaki

Introduced: 4/7/21

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to pollutants; relating to perfluoroalkyl and polyfluoroalkyl**
2 **substances; relating to the duties of the Department of Environmental Conservation;**
3 **relating to firefighting substances; relating to thermal remediation of perfluoroalkyl and**
4 **polyfluoroalkyl substance contamination; and providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 46.03 is amended by adding new sections to read:

7 **Article 5A. Perfluoroalkyl and Polyfluoroalkyl Substances.**

8 **Sec. 46.03.340. Testing; drinking water.** (a) The department shall ensure the
9 responsible party tests for perfluoroalkyl substances and polyfluoroalkyl substances in
10 all drinking water used in the state that is in a water supply located in the state when a
11 perfluoroalkyl substance or polyfluoroalkyl substance is released in the area of the
12 water supply. If a test conducted under this subsection detects a perfluoroalkyl
13 substance or polyfluoroalkyl substance at a level equal to or greater than the limit
14 described in (b) of this section, the department shall ensure the responsible party

1 provides a person who routinely uses the tested drinking water, at no cost to the
2 person,

3 (1) a source of drinking water containing levels of perfluoroalkyl
4 substances and polyfluoroalkyl substances lower than the limits described in (b) of this
5 section; and

6 (2) at least one voluntary test of the person's blood to determine the
7 person's exposure to perfluoroalkyl substances and polyfluoroalkyl substances.

8 (b) For purposes of (a) of this section, the limit of perfluoroalkyl substance or
9 polyfluoroalkyl substance contamination in water is the lesser of

10 (1) the limit established by the department in regulation; or

11 (2) the following limits:

	CUTOFF CONCENTRATION
SUBSTANCE	(parts per trillion)
perfluorobutanesulfonic acid	420
perfluorooctanoic acid	8
perfluorooctanesulfonic acid	16
perfluorononanoic acid	6
perfluorohexanesulfonic acid	51
perfluoroheptanoic acid	400,000
hexafluoropropylene oxide dimer acid	370.

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21 (c) The department shall ensure the responsible party provides a responder
22 who ingests, inhales, or absorbs through the skin or eyes a perfluoroalkyl substance or
23 polyfluoroalkyl substance, or fumes or another potentially harmful aspect of a
24 perfluoroalkyl substance or polyfluoroalkyl substance, at least one voluntary test of
25 the responder's blood to determine the responder's exposure to the perfluoroalkyl
26 substance or polyfluoroalkyl substance, at no cost to the responder. In this subsection,
27 "responder" means

28 (1) a peace officer, firefighter, or other first responder; or

29 (2) a person who contains or cleans up a perfluoroalkyl substance or
30 polyfluoroalkyl substance.

31 **Sec. 46.03.345. Liability for drinking water testing and blood testing costs.**

1 (a) A person who causes a fire that results in a release of a firefighting substance
2 containing a perfluoroalkyl substance or polyfluoroalkyl substance is liable for the
3 costs of providing drinking water testing and blood testing under AS 46.03.340. This
4 subsection does not apply to a release of a firefighting substance to extinguish a fire in
5 a residential building or motor vehicle.

6 (b) A person who extinguishes a fire by releasing a firefighting substance that
7 contains a perfluoroalkyl substance or polyfluoroalkyl substance is not liable for the
8 costs of providing drinking water testing and blood testing under AS 46.03.340 or site
9 cleanup under this chapter, AS 46.08, AS 46.09, or another state law unless the
10 firefighting substance was released for training or testing purposes.

11 (c) The liability of a person for costs under this section is in addition to other
12 liability under this chapter, AS 46.08, AS 46.09, or other state law for a release of a
13 perfluoroalkyl substance or polyfluoroalkyl substance.

14 (d) In this section,

15 (1) "motor vehicle" has the meaning given in AS 28.90.990, but does
16 not include a commercial motor vehicle, as defined in AS 28.90.990;

17 (2) "residential building" has the meaning given in AS 18.60.780.

18 **Sec. 46.03.350. Use of firefighting substances.** (a) A person engaged in the
19 business of oil or gas production, transmission, transportation, or refining may use a
20 firefighting substance that contains a perfluoroalkyl substance or polyfluoroalkyl
21 substance in the state unless the state fire marshal adopts regulations under (b) of this
22 section requiring use of an alternative firefighting substance.

23 (b) If the state fire marshal determines an alternative firefighting substance
24 listed by an organization recognized by the federal Occupational Safety and Health
25 Administration's Nationally Recognized Testing Laboratory Program is safe and
26 effective, the state fire marshal shall adopt regulations requiring use of the alternative
27 firefighting substance. The regulations must state the proposed effective date of the
28 regulations.

29 (c) The department shall accept for disposal from a person domiciled in the
30 state a firefighting substance that contains a perfluoroalkyl substance or
31 polyfluoroalkyl substance in a quantity not to exceed 25 gallons each year.

1 (d) Notwithstanding AS 46.03.320 and except as provided in (a) of this
 2 section, a person may not use a firefighting substance that contains a perfluoroalkyl
 3 substance or polyfluoroalkyl substance in the state unless the use is required by federal
 4 law.

5 **Sec. 46.03.355. Thermal remediation permit.** A facility that thermally
 6 remediates a perfluoroalkyl or polyfluoroalkyl substance contamination must have a
 7 permit from the department under 42 U.S.C. 7661 - 7661f (Clean Air Act, secs. 501 -
 8 507) authorizing the remediation. The department may not issue a permit or allow a
 9 facility to retain a permit issued under this section if the department determines that
 10 the remediation will result in the release of more than a minimal amount of an airborne
 11 compound with a carbon-fluorine bond detectable through source testing. Source
 12 testing under this section must include testing of all compounds with a carbon-fluorine
 13 bond for which the United States Environmental Protection Agency has approved a
 14 testing methodology.

15 **Sec. 46.03.359. Definitions.** In AS 46.03.340 - 46.03.359, "perfluoroalkyl
 16 substance" and "polyfluoroalkyl substance" include

- 17 (1) perfluorooctanoic acid;
- 18 (2) perfluorooctanesulfonic acid;
- 19 (3) perfluorononanoic acid;
- 20 (4) perfluorohexanesulfonic acid;
- 21 (5) perfluoroheptanoic acid;
- 22 (6) perfluorobutanesulfonic acid;
- 23 (7) hexafluoropropylene oxide dimer acid;
- 24 (8) other perfluoroalkyl substances or polyfluoroalkyl substances

25 specified by the department in regulation.

26 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
 27 read:

28 **APPLICABILITY; RETROACTIVITY.** (a) AS 46.03.340(c), added by sec. 1 of this
 29 Act, applies retroactively to a responder's exposure to a perfluoroalkyl substance or
 30 polyfluoroalkyl substance occurring on or after January 1, 2019.

31 (b) AS 46.03.345, added by sec. 1 of this Act, applies retroactively to a release of a

1 perfluoroalkyl substance or polyfluoroalkyl substance occurring before, on, or after the
2 effective date of sec. 1 of this Act.

3 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 TRANSITION: REGULATIONS. The Department of Environmental Conservation
6 shall adopt regulations necessary to implement this Act. The regulations take effect under
7 AS 44.62 (Administrative Procedure Act), but not before the effective date of the law
8 implemented by the regulation.

9 * **Sec. 4.** AS 46.03.350(d), added by sec. 1 of this Act, takes effect October 4, 2021.

10 * **Sec. 5.** Sections 2 and 3 of this Act take effect immediately under AS 01.10.070(c).

11 * **Sec. 6.** Except as provided in secs. 4 and 5 of this Act, this Act takes effect January 1,
12 2022.