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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2586

03/06/2023 Authored by Hansen, R., The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; imposing a gross revenues tax on entities manufacturing and
1.3 selling products containing PFAS; creating a xx cleanup account in the special
1.4 revenue fund; establishing the XX Advisory Commission; requiring reports;
1.5 proposing coding for new law in Minnesota Statutes, chapter 295.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. 295.80 PFAS GROSS REVENUES TAX.

1.8 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
1.9 the meanings given.

1.10 (b) "Commissioner" means the commissioner of revenue.

1.11 (c) "Gross revenues" means the total amounts received in money or otherwise by the
1.12 manufacture or retail sale of products containing PFAS in this state.

1.13 (d) "Manufacturer" means any person engaging in the production, preparation,
1.14 propagation, conversion, or processing of products containing PFAS, either directly or
1.15 indirectly, including packaging or repackaging, or any person whose brand name is affixed
1.16 to the product.

1.17 (e) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means substances that
1.18 include any member of the class of fluorinated organic chemicals containing at least one
1.19 fully fluorinated carbon atom.

1.20 (f) "Person" means an individual, partnership, limited liability company, corporation,
1.21 association, or public or private organization of any kind. Person does not include a
1.22 governmental unit or agency, or instrumentality of a government entity.

2.1 (g) "Products containing PFAS" means products in which PFAS are deliberately added
2.2 during the manufacture of a product where the continued presence of PFAS is desired in
2.3 the final product or one of the product's components to perform a specific function.

2.4 (h) "Retailer" means any person making sales, leases, or rentals of products containing
2.5 PFAS.

2.6 Subd. 2. **Nexus required.** (a) For a manufacturer, a person who maintains within this
2.7 state, directly or by a subsidiary or an affiliate, a plant, center, office, warehouse, or other
2.8 place where manufacturing occurs is deemed to have minimum contacts in Minnesota and
2.9 is subject to the tax imposed under this section.

2.10 (b) For a retailer, a person who is required to collect and remit the tax imposed under
2.11 chapter 297A is deemed to have minimum contacts in Minnesota and is subject to the tax
2.12 imposed under this section.

2.13 Subd. 3. **Tax imposed.** (a) For a manufacturer who has nexus in Minnesota under
2.14 subdivision 2, a tax equal to 50 percent of gross revenue is imposed on revenue derived
2.15 from products containing PFAS manufactured in Minnesota and sold to a distributor.

2.16 (b) For a retailer who has nexus in Minnesota under subdivision 2, a tax equal to 50
2.17 percent of gross revenue is imposed on revenue derived from the retail sale of products
2.18 containing PFAS in Minnesota.

2.19 Subd. 4. **Reporting requirements.** A person subject to the tax imposed by this section
2.20 must submit a monthly informational report in the form and manner prescribed by the
2.21 commissioner. No payment of any tax is required to be remitted with the report. The report
2.22 must be filed on or before the tenth day following the end of each calendar month, regardless
2.23 of whether or not the person manufactured or sold any products containing PFAS during
2.24 the previous month, unless the commissioner determines that a longer filing period is
2.25 appropriate for a particular person.

2.26 Subd. 5. **Administration.** Unless specifically provided otherwise, the audit, assessment,
2.27 refund, penalty, interest, enforcement, collection remedies, appeal, and administrative
2.28 provisions of chapters 270C and 289A, apply to the tax imposed under this section.

2.29 Subd. 6. **Returns; payment of tax.** (a) A person owing tax under this section must
2.30 report the tax on a return prescribed by the commissioner and must remit the tax on an
2.31 annual basis in a form and manner prescribed by the commissioner. The return and the tax
2.32 must be filed and paid using the filing cycle and due dates provided for taxes imposed under
2.33 section 289A.20, subdivision 1, and chapter 290.

3.1 Subd. 7. Credit for taxes paid. A person that has paid taxes to another jurisdiction
3.2 measured by gross revenues and is subject to tax under this section on the same gross
3.3 revenues is entitled to a credit for tax legally due and paid to another jurisdiction to the
3.4 extent of the lesser of:

3.5 (1) the tax actually paid to the other jurisdiction; or

3.6 (2) the amount of tax imposed by Minnesota on the gross revenues subject to tax in the
3.7 other taxing jurisdictions.

3.8 Subd. 8. Interest on overpayments. Interest must be paid on an overpayment refunded
3.9 or credited to the taxpayer in the manner provided in section 289A.56, subdivision 2.

3.10 Subd. 9. Deposit of revenues. The commissioner must deposit all revenues, including
3.11 penalties and interest, derived from the tax imposed by this section in the general fund.

3.12 EFFECTIVE DATE. This section is effective the day following final enactment.

3.13 Sec. 2. [295.81] CLEANUP ACCOUNT.

3.14 Subdivision 1. Purpose. The purpose of this account is to provide funds for environmental
3.15 cleanup around the state.

3.16 Subd. 2. Account creation. The xx cleanup account is hereby established in the special
3.17 revenue fund.

3.18 Subd. 3. Transfer of revenues. (a) By July 15 annually, an amount equal to the funds
3.19 raised by the tax imposed under section 295.80 must be transferred into the xx cleanup
3.20 account.

3.21 (b) To the extent the commissioner of management and budget determines that revenues
3.22 are available for transfer under paragraph (a) for the fiscal year, those amounts are
3.23 appropriated from the general fund for deposit in the xx cleanup account.

3.24 Subd. 4. Use of funds. Funds in the xx cleanup account must be managed by the State
3.25 Board of Investment and used for purposes prescribed by the XX Advisory Commission
3.26 established under section 295.82.

3.27 EFFECTIVE DATE. This section is effective the day following final enactment.

4.1 Sec. 3. [295.82] XX ADVISORY COMMISSION.

4.2 Subdivision 1. Establishment. The XX Advisory Commission is established. The
4.3 purpose of the commission is to develop and recommend to the State Board of Investment
4.4 the proper use of funds in the xx cleanup account.

4.5 Subd. 2. Membership; meetings. (a) The commission consists of the following members:

4.6 (1) two representatives appointed by the speaker of the house;

4.7 (2) two representatives appointed by the minority leader of the house of representatives;

4.8 (3) two senators appointed by the senate majority leader;

4.9 (4) two senators appointed by the senate minority leader; and

4.10 (5) the commissioner of natural resources or the commissioner's designee.

4.11 (b) Each appointing authority must make appointments by January 31 of the regular
4.12 legislative session in the odd-numbered year.

4.13 (c) If the chair of the house or senate committee with primary jurisdiction over
4.14 environment and natural resources is not an appointed member, the chair is an ex officio,
4.15 nonvoting member of the commission.

4.16 (d) The voting members of the commission shall elect a chair and vice-chair. An appointee
4.17 designated by the house shall convene the commission's first meeting. Decisions of the
4.18 commission must be made by majority vote. The Department of Natural Resources must
4.19 provide office space and administrative support to the commission.

4.20 Subd. 3. Meetings. (a) The commission must meet in intervals established by the
4.21 commission at its first meeting.

4.22 (b) Meetings of the commission are subject to chapter 13D.

4.23 Subd. 4. Report. The commission must make its recommendations on the proper use
4.24 of money in the xx cleanup account in a report to the State Board of Investment each year
4.25 no later than January 1.

4.26 Subd. 5. Terms; vacancies. (a) Members of the commission serve a term beginning
4.27 upon appointment and ending at the beginning of the regular legislative session in the next
4.28 odd-numbered year. The appropriate appointing authority must fill a vacancy for a seat of
4.29 a current legislator for the remainder of the unexpired term. Members may be removed or
4.30 replaced at the pleasure of the appointing authority.

5.1 (b) If a commission member ceases to be a member of the legislative body from which
5.2 the member was appointed, the member vacates membership on the commission.

5.3 Subd. 6. **Officers.** The chair and vice-chair must alternate every two years between
5.4 members of the house of representatives and senate. The chair and vice-chair may not be
5.5 from the same legislative chamber.

5.6 Subd. 7. **Expenses.** The members of the commission and its staff shall be reimbursed
5.7 for all expenses actually and necessarily incurred in the performance of their duties.
5.8 Reimbursement for expenses incurred shall be made in accordance with policies adopted
5.9 by the Legislative Coordinating Commission.

5.10 **EFFECTIVE DATE; SPECIAL PROVISIONS.** (a) This section is effective the day
5.11 following final enactment.

5.12 (b) Appointing authorities for the commission must make initial appointments by January
5.13 15, 2024. The speaker of the house must designate one member of the commission to convene
5.14 the first meeting of the commission by July 1, 2024. The first report of the commission is
5.15 due on December 15, 2024.