

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2305 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: John Pfeiffer _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2305

By: Pfeiffer

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to environment and natural resources;
9 creating the Oklahoma PFAS Act; defining terms;
10 requiring promulgation of rules and regulations by
11 the Oklahoma Department of Environmental Quality on
12 PFAS waste; specifying content of certain rules;
13 requiring the creation of a fee schedule for the
14 disposal of PFAS substances; establishing certain
15 liability for PFAS waste generators; creating certain
16 liability exceptions for certain passive receivers of
17 PFAS substances; construing clause; requiring
18 application and authorization for certain activities;
19 authorizing Department to authorize certain
20 activities; providing for certain classification of
21 PFAS waste; providing for codification; and providing
22 an effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2-7-501 of Title 27A, unless
there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma PFAS
Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-7-502 of Title 27A, unless
3 there is created a duplication in numbering, reads as follows:

4 A. As used in the Oklahoma PFAS Act:

5 1. "PFAS" means perfluoroalkyl and polyfluoroalkyl
6 substances; and

7 2. "PFAS waste" means the following materials containing
8 high concentrations of PFAS that are being abandoned,
9 discarded, disposed of, destroyed, or stored pending such
10 disposal or destruction:

11 a. waste aqueous film-forming foam ("AFFF") containing
12 PFAS,

13 b. waste containing high concentrations of PFAS that is
14 generated at PFAS manufacturing and processing
15 facilities,

16 c. waste containing high concentrations of PFAS that is
17 generated at facilities using PFAS in the production
18 of products other than PFAS,

19 d. waste containing high concentrations of PFAS from
20 remediation projects,

21 e. any treatment waste containing high concentrations of
22 PFAS associated with the removal of PFAS including,
23 but not limited to, waste or waste streams from spent
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1 water treatment materials used for the removal of PFAS
2 in drinking water or groundwater, and

3 f. any other waste that typically contains or is expected
4 to contain high concentrations of PFAS.

5 3. "High concentrations of PFAS" means a PFAS concentration
6 that poses an unacceptable risk to human health or the
7 environment as determined through criteria established by rules
8 promulgated pursuant to Section 2-3-402 of the Oklahoma
9 Statutes and the Administrative Procedures Act.

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2-7-503 of Title 27A, unless
12 there is created a duplication in numbering, reads as follows:

13 A. Subject to subsection B of this section, the following
14 protected passive receivers of PFAS waste that provide essential
15 services shall not be liable to the State of Oklahoma, or any
16 political subdivision of the state, for costs arising from a release
17 to the environment of a PFAS substance:

18 1. A public water system (as defined in Section 1401 of the
19 Federal Safe Drinking Water Act (42 U.S.C. 300f));

20 2. A publicly or privately owned or operated treatment works
21 (as defined in Section 212 of the Federal Water Pollution Control
22 Act (33 U.S.C. 1292)), or the owner of a site where biosolids
23 generated from a treatment works or a permitted municipal wastewater
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1 lagoon (as defined by the administrative rules of the Department)
2 are applied;

3 3. A municipality to which a permit under Section 402 of the
4 Federal Water Pollution Control Act (33 U.S.C. 1342) is issued for
5 stormwater discharges;

6 4. A political subdivision of the State of Oklahoma acting as a
7 wholesale water agency;

8 5. A contractor performing the management or disposal
9 activities described in subsection B for an entity described in and
10 of subparagraphs 1 through 4;

11 6. An entity with a fire suppression system installed, or
12 otherwise in use, in accordance with applicable federal, state, and
13 local fire codes that uses AFFF containing PFAS;

14 7. A sponsor of the civilian portion of a joint-use airport or
15 a shared-use airport with the release of PFAS substances resulting
16 from the use of AFFF pursuant to, and carried out in accordance
17 with, Federal Aviation Administration standards and guidance on the
18 use of the substances; and

19 8. An owner or operator of a solid waste management facility
20 (as defined in Section 1004 of the Solid Waste Disposal Act (42
21 U.S.C. 6903)).

22 B. The exemption from liability contained in subsection A shall
23 only apply if the protected passive receiver of a PFAS substance
24 manages, transports, conveys, treats, disposes of, or arranges for

1 the transport, treatment, or disposal of the PFAS substance, in
2 accordance with all relevant and applicable federal, state, or local
3 permits or other legal requirements, and the most recently approved
4 engineering standards, at the time that the activity is carried out.

5 C. Nothing in this section precludes liability for damages or
6 costs associated with the release of a PFAS substance by a protected
7 passive receiver of a PFAS substance if the protected passive
8 receiver acted with gross negligence or willful misconduct in the
9 discharge, disposal, management, conveyance, or storage of the PFAS
10 substance.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2-7-504 of Title 27A, unless
13 there is created a duplication in numbering, reads as follows:

14 A. The Environmental Quality Board shall adopt and promulgate
15 rules and regulations related to the receipt, storage, treatment,
16 and disposal of PFAS waste in this state.

17 B. Rules and regulations adopted under subsection A of this
18 section shall include provisions requiring that any person accepting
19 PFAS waste for storage, treatment, and/or disposal shall demonstrate
20 to the Department that the manner in which the PFAS waste is to be
21 stored, treated, and/or disposed of is protective of human health
22 and the environment. The rules and regulations shall establish
23 criteria or guidelines to assist the Department in making a
24 determination regarding this protection.

1 C. The Environmental Quality Board shall establish a schedule
2 of fees, pursuant to Section 2-3-402 of the Oklahoma Statutes and
3 the Administrative Procedures Act, for the application to dispose,
4 and for disposal of, PFAS waste based on the type and amount of PFAS
5 waste disposed of at a facility in Oklahoma. The fees shall be
6 deposited into the Oklahoma Department of Environmental Quality
7 Revolving Fund.

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2-7-505 of Title 27A, unless
10 there is created a duplication in numbering, reads as follows:

11 A. A person shall submit an application for the activity to the
12 Oklahoma Department of Environmental Quality and shall receive
13 authorization from the Department prior to receiving, storing,
14 treating, or disposing of PFAS waste. The process and requirements
15 necessary for the authorization shall be governed by rules and
16 regulations adopted pursuant to Section 3 of this act. The
17 Department, in the exercise of its reasonable discretion, may waive
18 specific requirements of this act or the adopted rules where there
19 is no feasible alternative to the storage, treatment, or disposal at
20 issue and the action does not result in a greater risk to human
21 health and the environment. Prior to the adoption of such rules and
22 regulations, the Department may authorize the continuation of
23 activities covered under this subsection if it determines that the
24 activities will be conducted in a manner that is sufficiently

1 protective of human health and the environment as determined by the
2 Department.

3 B. Nothing in this section shall relieve the manufacturer of
4 PFAS-containing material from liability related to the storage,
5 treatment, and/or disposal of PFAS waste.

6 C. PFAS waste generated in or transported from another state
7 shall maintain the same classification or characterization it would
8 receive in the state of origin, unless such classification or
9 characterization is less protective of human health and the
10 environment than the classification or characterization it would
11 have received if generated in this state. If the PFAS waste
12 generated in or transported from another state is banned from
13 disposal in the state of origin, then the waste is similarly banned
14 from disposal in Oklahoma.

15 SECTION 6. This act shall become effective November 1, 2024.

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