

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 302 Session of 2021

INTRODUCED BY YAW, BARTOLOTTA, MARTIN, BAKER, COLLETT, COMITTA AND CAPPELLETTI, MARCH 10, 2021

AS REPORTED FROM COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 15, 2022

AN ACT

1 ~~Prohibiting the use of certain class B firefighting foams under~~ <--
2 ~~certain circumstances and providing for warning labels; and~~
3 ~~imposing powers and duties on the Pennsylvania Emergency~~
4 ~~Management Agency and the State Fire Commissioner.~~

5 AMENDING TITLE 35 (HEALTH AND SAFETY) OF THE PENNSYLVANIA <--
6 CONSOLIDATED STATUTES, IN COMMONWEALTH SERVICES, PROVIDING
7 FOR FIREFIGHTING FOAM MANAGEMENT.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 ~~Section 1. Short title.~~ <--

11 ~~This act shall be known and may be cited as the Firefighting~~
12 ~~Foam Management Act.~~

13 ~~Section 2. Definitions.~~

14 ~~The following words and phrases when used in this act shall~~
15 ~~have the meanings given to them in this section unless the~~
16 ~~context clearly indicates otherwise:~~

17 ~~"Class B firefighting foam." A foam designed for~~
18 ~~extinguishing flammable liquid fires.~~

19 ~~"Firefighting entity." An entity that engages in fire~~

1 ~~prevention or control activities in this Commonwealth. The term~~
2 ~~includes a volunteer fire company.~~

3 ~~"PFAS chemical." A fluorinated organic chemical that~~
4 ~~contains at least one fully fluorinated carbon atom and is~~
5 ~~designed to be fully functional in formulations of class B~~
6 ~~firefighting foam.~~

7 ~~"Testing." The term includes calibration testing,~~
8 ~~conformance testing and fixed system testing.~~

9 ~~Section 3. Prohibited conduct.~~

10 ~~(a) General rule. Beginning July 1, 2022, no person or~~
11 ~~firefighting entity and neither the Commonwealth nor a~~
12 ~~municipality may discharge or otherwise use a class B~~
13 ~~firefighting foam that contains an intentionally added PFAS~~
14 ~~chemical for:~~

15 ~~(1) testing purposes at a facility, unless:~~

16 ~~(i) otherwise required by law or the governmental~~
17 ~~entity having jurisdiction over the testing facility; and~~

18 ~~(ii) the facility has implemented appropriate~~
19 ~~containment, treatment and disposal measures to prevent~~
20 ~~the uncontrolled release of the class B firefighting foam~~
21 ~~into the environment; or~~

22 ~~(2) training purposes, unless the training involves~~
23 ~~replacing the class B firefighting foam that contains an~~
24 ~~intentionally added PFAS chemical with nonfluorinated~~
25 ~~training foam.~~

26 ~~(b) Transitional provision. The Pennsylvania Emergency~~
27 ~~Management Agency, in consultation with the State Fire~~
28 ~~Commissioner, shall assist firefighting entities with evaluating~~
29 ~~and determining how to transition to the use of class B~~
30 ~~firefighting foam that does not contain an intentionally added~~

1 ~~PFAS chemical for testing purposes.~~

2 ~~(c) Penalty.~~

3 ~~(1) A person or fire department who administers a~~
4 ~~training program in violation of this section is subject to a~~
5 ~~civil penalty not to exceed \$5,000 for a first offense.~~

6 ~~(2) A person or fire department who administers a~~
7 ~~training program in violation of this section for a second or~~
8 ~~subsequent offense is subject to a civil penalty not to~~
9 ~~exceed \$10,000.~~

10 ~~(3) Penalties collected under this section shall be~~
11 ~~deposited into the Online Training Educator and Training~~
12 ~~Reimbursement Account for the purposes of developing,~~
13 ~~delivering and sustaining training programs for volunteer and~~
14 ~~career firefighters in this Commonwealth.~~

15 ~~Section 4. Warning labels.~~

16 ~~A manufacturer of personal protective equipment for fire~~
17 ~~prevention or control activities in this Commonwealth shall~~
18 ~~affix a warning label to the product if the product contains a~~
19 ~~perfluorooctane (PFOS) and perfluorooctanoic acid (PFOA).~~

20 ~~Section 5. Enforcement.~~

21 ~~The Pennsylvania Emergency Management Agency shall enforce~~
22 ~~the provisions of this act.~~

23 ~~Section 6. Construction.~~

24 ~~Nothing in this act shall be construed to restrict:~~

25 ~~(1) the manufacture, sale or distribution of class B~~
26 ~~firefighting foam that contains an intentionally added PFAS~~
27 ~~chemical; or~~

28 ~~(2) the discharge or other use of class B firefighting~~
29 ~~foam that contains an intentionally added PFAS chemical in~~
30 ~~emergency firefighting or fire prevention operations.~~

1 ~~Section 7. Effective date.~~

2 ~~This act shall take effect immediately.~~

3 SECTION 1. TITLE 35 OF THE PENNSYLVANIA CONSOLIDATED

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4 STATUTES IS AMENDED BY ADDING A SECTION TO READ:

5 § 7389. FIREFIGHTING FOAM MANAGEMENT.

6 (A) PROHIBITED CONDUCT.--THE FOLLOWING SHALL APPLY:

7 (1) BEGINNING JANUARY 1, 2023, NO PERSON, FIREFIGHTING
8 ENTITY, THE COMMONWEALTH NOR A MUNICIPALITY MAY DISCHARGE OR
9 OTHERWISE USE A CLASS B FIREFIGHTING FOAM THAT CONTAINS AN
10 INTENTIONALLY ADDED PFAS CHEMICAL FOR:

11 (I) TESTING PURPOSES AT A FACILITY, UNLESS:

12 (A) OTHERWISE REQUIRED BY LAW OR THE
13 GOVERNMENTAL ENTITY HAVING JURISDICTION OVER THE
14 TESTING FACILITY; AND

15 (B) THE FACILITY HAS IMPLEMENTED APPROPRIATE
16 CONTAINMENT, TREATMENT AND DISPOSAL MEASURES TO
17 PREVENT THE UNCONTROLLED RELEASE OF THE CLASS B
18 FIREFIGHTING FOAM INTO THE ENVIRONMENT; OR

19 (II) TRAINING PURPOSES, UNLESS THE TRAINING INVOLVES
20 REPLACING THE CLASS B FIREFIGHTING FOAM THAT CONTAINS AN
21 INTENTIONALLY ADDED PFAS CHEMICAL WITH NONFLUORINATED
22 TRAINING FOAM.

23 (2) THE STATE FIRE COMMISSIONER SHALL ASSIST
24 FIREFIGHTING ENTITIES WITH EVALUATING AND DETERMINING HOW TO
25 TRANSITION TO THE USE OF CLASS B FIREFIGHTING FOAM THAT DOES
26 NOT CONTAIN AN INTENTIONALLY ADDED PFAS CHEMICAL FOR TESTING
27 PURPOSES.

28 (3) (I) AN INDIVIDUAL OR FIRE DEPARTMENT WHO
29 ADMINISTERS A TRAINING PROGRAM IN VIOLATION OF THIS
30 SECTION SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED

1 \$5,000 FOR A FIRST OFFENSE.

2 (II) AN INDIVIDUAL OR FIRE DEPARTMENT WHO
3 ADMINISTERS A TRAINING PROGRAM IN VIOLATION OF THIS
4 SECTION FOR A SECOND OR SUBSEQUENT OFFENSE SHALL BE
5 SUBJECT TO A CIVIL PENALTY NOT TO EXCEED \$10,000.

6 (III) PENALTIES COLLECTED UNDER THIS SECTION SHALL
7 BE DEPOSITED INTO THE ONLINE TRAINING EDUCATOR AND
8 TRAINING REIMBURSEMENT ACCOUNT.

9 (B) WARNING LABELS.--A MANUFACTURER OF PERSONAL PROTECTIVE
10 EQUIPMENT FOR FIRE PREVENTION OR CONTROL ACTIVITIES IN THIS
11 COMMONWEALTH SHALL AFFIX A WARNING LABEL TO THE PRODUCT IF THE
12 PRODUCT CONTAINS A PERFLUOROCTANE (PFOS) OR PERFLUOROCTANOIC
13 ACID (PFOA).

14 (C) ENFORCEMENT.--THE OFFICE OF THE STATE FIRE COMMISSIONER
15 SHALL ENFORCE THE PROVISIONS OF THIS SECTION.

16 (D) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE
17 CONSTRUED TO RESTRICT:

18 (1) THE MANUFACTURE, SALE OR DISTRIBUTION OF CLASS B
19 FIREFIGHTING FOAM THAT CONTAINS AN INTENTIONALLY ADDED PFAS
20 CHEMICAL; OR

21 (2) THE DISCHARGE OR OTHER USE OF CLASS B FIREFIGHTING
22 FOAM THAT CONTAINS AN INTENTIONALLY ADDED PFAS CHEMICAL IN
23 EMERGENCY FIREFIGHTING OR FIRE SUPPRESSION OPERATIONS.

24 (E) DEFINITIONS.--THE FOLLOWING WORDS AND PHRASES WHEN USED
25 IN THIS SECTION SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
26 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

27 "CLASS B FIREFIGHTING FOAM." A FOAM DESIGNED FOR
28 EXTINGUISHING FLAMMABLE-LIQUID FIRES.

29 "FIREFIGHTING ENTITY." AN ENTITY THAT ENGAGES IN FIRE
30 PREVENTION OR CONTROL ACTIVITIES IN THIS COMMONWEALTH. THE TERM

1 SHALL INCLUDE MUNICIPAL FIRE DEPARTMENTS AND VOLUNTEER FIRE
2 COMPANIES.

3 "PFAS CHEMICAL." A FLUORINATED ORGANIC CHEMICAL THAT
4 CONTAINS AT LEAST ONE FULLY FLUORINATED CARBON ATOM AND IS
5 DESIGNED TO BE FULLY FUNCTIONAL IN FORMULATIONS OF CLASS B
6 FIREFIGHTING FOAM.

7 "TESTING." THE TERM SHALL INCLUDE TESTING RELATED TO
8 CALIBRATION, CONFORMANCE AND FIXED SYSTEM.

9 SECTION 2. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.