

House File 2241 - Introduced

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A BILL FOR

1 An Act relating to the manufacture, distribution, sale, and
2 use of fire fighting foam and personal protective equipment
3 containing perfluoroalkyl or polyfluoroalkyl substances,
4 providing penalties, making penalties applicable, and
5 including applicability provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 455E.11, subsection 2, paragraph c,
2 subparagraph (1), Code 2020, is amended to read as follows:

3 (1) The moneys collected pursuant to ~~section~~ sections
4 455F.7 and 455F.12, and the moneys collected pursuant to
5 section 29C.8A ~~which~~ that are designated for deposit, shall
6 be deposited in the household hazardous waste account.
7 Two thousand dollars is appropriated annually to the Iowa
8 department of public health to carry out departmental duties
9 under section 135.11, subsections 18 and 19, and section
10 139A.21. The remainder of the account shall be used to fund
11 the efforts of the department to support a collection system
12 for household hazardous materials, including public education
13 programs, training, and consultation of local governments
14 in the establishment and operation of permanent collection
15 systems, and the management of collection sites, education
16 programs, and other activities pursuant to chapter 455F,
17 including the administration of the household hazardous
18 materials retailer permit program by the department of revenue.

19 Sec. 2. NEW SECTION. 455F.12 Fire fighting foam
20 and personal protective equipment — perfluoroalkyl or
21 polyfluoroalkyl substances.

22 1. As used in this section, unless the context otherwise
23 requires:

24 a. "*Class B fire fighting foam*" means foam designed to
25 extinguish flammable-liquid fires.

26 b. "*Fire fighting personal protective equipment*" means any
27 clothing designed, intended, or marketed to be worn or used
28 by fire fighting personnel in the performance of their duties
29 during fire and rescue activities, including but not limited
30 to jackets, pants, shoes, gloves, helmets, and respiratory
31 equipment.

32 c. "*Perfluoroalkyl substance*" or "*polyfluoroalkyl substance*"
33 means a class of fluorinated organic chemicals containing at
34 least one fully fluorinated carbon atom.

35 2. a. Except as otherwise provided, a person shall not

1 knowingly manufacture, sell, offer for sale, distribute
2 for sale, or distribute for use in this state class B fire
3 fighting foam that contains a perfluoroalkyl substance or a
4 polyfluoroalkyl substance that was intentionally added.

5 *b.* Except as otherwise provided, a person shall not
6 discharge, or otherwise use for training purposes, a class B
7 fire fighting foam that contains a perfluoroalkyl substance or
8 a polyfluoroalkyl substance that was intentionally added.

9 3. *a.* Subsection 2 does not apply to the manufacture,
10 sale, distribution, discharge, or use for training purposes
11 of class B fire fighting foam for which the inclusion of a
12 perfluoroalkyl substance or a polyfluoroalkyl substance is
13 required by federal law, including but not limited to 14 C.F.R.
14 §139.317, as that section existed on January 1, 2020.

15 *b.* In the event that applicable federal law changes after
16 January 1, 2020, to allow the use of alternative fire fighting
17 agents that do not contain a perfluoroalkyl substance or a
18 polyfluoroalkyl substance, the exemption in paragraph "a" does
19 not apply.

20 4. A manufacturer that manufactures, sells, or distributes
21 a class B fire fighting foam of which the manufacture, sale,
22 and distribution is prohibited under subsection 2 shall recall
23 the product and reimburse the retailer or any other purchaser
24 of the product.

25 5. *a.* A person who sells fire fighting personal protective
26 equipment shall provide written notice to the purchaser at the
27 time of sale if the fire fighting personal protective equipment
28 contains a perfluoroalkyl substance or a polyfluoroalkyl
29 substance. The written notice shall include a statement that
30 the fire fighting personal protective equipment contains a
31 perfluoroalkyl substance or a polyfluoroalkyl substance and the
32 reason that the perfluoroalkyl substance or polyfluoroalkyl
33 substance was added to the equipment.

34 *b.* A person selling fire fighting personal protective
35 equipment and the purchaser of the equipment shall retain a

1 copy of the notice on file for at least three years after the
2 date of the sale. Upon request from the department, a person
3 shall furnish the notice and associated sales documents to the
4 department within sixty days.

5 6. The department may request a certificate of compliance
6 from a manufacturer of class B fire fighting foam or fire
7 fighting personal protective equipment sold in this state. A
8 certificate of compliance must attest that a manufacturer's
9 products and practices meet the requirements of this section.
10 The manufacturer shall provide a certificate of compliance to
11 the department within thirty days of the date the department
12 made the request.

13 7. The department shall assist state agencies, fire
14 protection districts, and local governments in avoiding the
15 purchase, discharge, or use for training purposes of class B
16 fire fighting foam that contains a perfluoroalkyl substance or
17 a polyfluoroalkyl substance that was intentionally added.

18 8. In addition to the penalty imposed under section 455F.10,
19 the department shall assess a civil penalty to a person who
20 violates this section. For a first violation, the civil
21 penalty shall not exceed five thousand dollars. For a second
22 or subsequent violation, the civil penalty shall not exceed ten
23 thousand dollars. Moneys collected by the department under
24 this subsection shall be remitted to the treasurer of state
25 for deposit in the household hazardous waste account of the
26 groundwater protection fund created in section 455E.11.

27 Sec. 3. NOTIFICATION BY MANUFACTURERS. Subject to the civil
28 penalty imposed under section 455F.12, subsection 8, as enacted
29 by this Act, a manufacturer of class B fire fighting foam of
30 which the manufacture, sale, and distribution is prohibited
31 under section 455F.12, subsection 2, as enacted by this Act,
32 shall notify, in writing, persons who sell the manufacturer's
33 products in this state about the provisions of this Act no
34 later than January 1, 2021.

35 Sec. 4. APPLICABILITY.

1 1. Section 455F.12, subsection 2, as enacted by this Act,
2 applies to the manufacture, sale, offer for sale, distribution
3 for sale, distribution for use, discharge, or use for training
4 purposes of class B fire fighting foam on and after January 1,
5 2022.

6 2. Section 455F.12, subsection 5, as enacted by this Act,
7 applies to the sale of fire fighting personal protective
8 equipment on and after January 1, 2021.

9 EXPLANATION

10 The inclusion of this explanation does not constitute agreement with
11 the explanation's substance by the members of the general assembly.

12 This bill relates to fire fighting foam and personal
13 protective equipment that contain certain chemicals.

14 The bill prohibits the manufacture, sale, distribution,
15 discharge, or use for training purposes of class B fire
16 fighting foam that contains an intentionally added
17 perfluoroalkyl or polyfluoroalkyl substance on and after
18 January 1, 2022. The bill makes an exception for class B fire
19 fighting foam for which such substances are required to be
20 added under federal law.

21 The bill requires a manufacturer who sells prohibited fire
22 fighting foam to notify persons who sell the foam of the
23 restrictions in the bill by January 1, 2021, and issue a recall
24 for prohibited fire fighting foam.

25 On and after January 1, 2021, the bill requires a
26 manufacturer of fire fighting personal protective equipment to
27 notify a purchaser if the equipment contains a perfluoroalkyl
28 or polyfluoroalkyl substance. The manufacturer must include in
29 the notice the reason why the equipment contains the substance.
30 The bill requires the manufacturer and the purchaser to keep
31 a copy of the notice on file for three years after the date of
32 the sale and provide a copy of the notice to the department of
33 natural resources within 60 days of the department's request
34 to furnish the notice.

35 The bill authorizes the department to request a certificate

1 of compliance from a manufacturer of class B fire fighting foam
2 or fire fighting personal protective equipment sold in the
3 state. The certificate shall attest that the manufacturer's
4 products and practices meet the requirements of the bill. The
5 bill requires the department to assist governmental entities in
6 avoiding the purchase, discharge, or use for training purposes
7 of class B fire fighting foam that contains an intentionally
8 added perfluoroalkyl or polyfluoroalkyl substance.

9 A first violation of the bill is punishable by a civil
10 penalty of up to \$5,000. A subsequent violation of the bill
11 is punishable by a civil penalty of up to \$10,000. Civil
12 penalties collected for a violation of the bill shall be
13 remitted to the treasurer of state for deposit in the household
14 hazardous waste account of the groundwater protection fund.

15 By operation of law, a violation of the bill is a simple
16 misdemeanor. A simple misdemeanor is punishable by confinement
17 for no more than 30 days or a fine of at least \$65 but not more
18 than \$625 or by both.