



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0561

Introduced 2/23/2021, by Sen. Laura Ellman

SYNOPSIS AS INTRODUCED:

New Act

Creates the PFAS Reduction Act. Provides that a person, local government, fire department, or State agency may not discharge or otherwise use for training or testing purposes a class B firefighting foam containing intentionally added PFAS. On and after January 1, 2022, prohibits the knowing manufacture, sale, offering for sale, distribution for sale, or distribution for use of a class B firefighting foam containing intentionally added PFAS. Provides specified notice and recall requirements for manufacturers. Contains a prohibition and exemption for the manufacture, sale, offering for sale, or distribution for sale of food packaging containing intentionally added PFAS. Requires manufacturers of class B firefighting foam containing PFAS to register with the Environmental Protection Agency and pay to the Agency an annual registration fee of \$5,000. Requires the Agency to administer and enforce the Act and to adopt rules. Requires the Office of the State Fire Marshal to conduct a survey of fire departments and to provide a report of the results of the survey to the General Assembly no later than 90 days after its completion. Provides a civil penalty of \$5,000 for the first violation of the Act and \$10,000 for each subsequent violation. Provides that civil penalties collected must be deposited into the Environmental Protection Trust Fund to be used in accordance with the provisions of the Environmental Protection Trust Fund Act. Contains other provisions. Effective immediately.

LRB102 11754 CPF 17089 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the PFAS
5 Reduction Act.

6 Section 5. Definitions. In this Act:

7 "Agency" means the Environmental Protection Agency.

8 "Class B firefighting foam" means foam designed to
9 extinguish flammable liquid fires.

10 "Fire department" means the duly authorized fire
11 protection organization of a unit of local government, a
12 Regional Fire Protection Agency, a fire protection district,
13 or a volunteer fire department.

14 "Firefighting personal protective equipment" means any
15 clothing, including, but not limited to, jackets, pants,
16 shoes, gloves, helmets, and respiratory equipment designed,
17 intended, or marketed to be worn by firefighting personnel in
18 the performance of their duties.

19 "Local government" means a unit of local government or
20 other special purpose district that provides firefighting
21 services.

22 "Manufacturer" means a person that manufactures
23 firefighting agents, firefighting equipment, or firefighting

1 personal protective equipment and any agents of that person,
2 including an importer, distributor, authorized servicer,
3 factory branch, or distributor branch.

4 "Perfluoroalkyl substance or polyfluoroalkyl substance" or
5 "PFAS" means a class of fluorinated organic chemicals
6 containing at least one fully fluorinated carbon atom.

7 "Person" means any individual, partnership, association,
8 public or private corporation, limited liability company, or
9 any other type of legal or commercial entity, including, but
10 not limited to, members, managers, partners, directors, or
11 officers.

12 "Testing" means calibration testing, conformance testing,
13 and fixed system testing.

14 Section 10. Class B firefighting foam; PFAS.

15 (a) Beginning January 1, 2022, a person, local government,
16 fire department, or State agency may not discharge or
17 otherwise use for training or testing purposes a class B
18 firefighting foam containing intentionally added PFAS.
19 However, the testing of class B firefighting foam to which
20 PFAS chemicals have been intentionally added may occur if the
21 Agency has evaluated the testing facility for containment,
22 treatment, and disposal measures to prevent uncontrolled
23 release of foam to the environment. Appropriate containment,
24 treatment, and disposal or storage measures may not include
25 flushing, draining, or otherwise discharging the foam into a

1 storm or sanitary sewer.

2 (b) On and after January 1, 2025, a manufacturer of class B
3 firefighting foam may not knowingly manufacture, sell, offer
4 for sale, distribute for sale, or distribute for use in this
5 State a class B firefighting foam containing intentionally
6 added PFAS.

7 (c) The prohibitions of this Section do not apply to the
8 manufacture, sale, or distribution of class B firefighting
9 foam where the inclusion of PFAS chemicals is required or
10 authorized under federal law or local building or fire codes,
11 including, but not limited to, 14 CFR 139.317, federal
12 aviation administration guidance, and the 2016 edition of NFPA
13 409 Standard on Aircraft Hangars as amended, or otherwise
14 required for a military purpose. However, if applicable
15 federal law allows the use of alternative firefighting agents
16 that do not contain PFAS chemicals, the restrictions under
17 this Section shall apply.

18 (d) The prohibitions of this Section do not apply to the
19 manufacture, sale, or distribution of class B firefighting
20 foam with PFAS chemicals that is used by a fire department, for
21 a period not to exceed 5 years after the effective date of this
22 Section, solely in emergency situations.

23 Section 15. Notification; recall; registration and
24 registration fee.

25 (a) On and after 30 days after the effective date of this

1 Act, a manufacturer of class B firefighting foam that is
2 restricted under Section 10 must notify, in writing, a person
3 that sells the manufacturer's class B firefighting foam in
4 this State of the provisions of this Act.

5 (b) A manufacturer that produces, sells, or distributes a
6 class B firefighting foam restricted under Section 10 shall
7 recall the product and reimburse the retailer or any other
8 purchaser for the product.

9 (c) Beginning on January 1, 2022, any person, unit of
10 local government, fire department, or State agency that
11 discharges, uses, or releases class B firefighting foam that
12 contains intentionally added PFAS chemicals must be reported
13 to the Agency within 48 hours of the discharge, use, or
14 release. The notification must include:

15 (1) the time, date, location, and estimated amount of
16 class B firefighting foam discharged, used, or released;

17 (2) the purpose or reason of the discharge, use, or
18 release; and

19 (3) the containment, treatment, and disposal measures
20 to be taken or used to prevent or minimize the discharge or
21 release of the foam into the environment.

22 Section 20. Rules. The Agency shall adopt any rules
23 necessary for the implementation and administration of this
24 Act.

1 Section 25. Survey.

2 (a) On or before January 1, 2022, the Office of the State
3 Fire Marshal shall conduct a survey of fire departments to
4 determine:

5 (1) Each fire department's name, applicable
6 identification number, and address.

7 (2) The amount, type, and date of manufacture of any
8 class b firefighting foam containing intentionally added
9 PFAS chemicals that each fire department possesses.

10 (3) How, where, and when each fire department has used
11 class b firefighting foam containing intentionally added
12 PFAS chemicals for firefighter training.

13 (4) Whether each fire department is served by a well
14 or public drinking water source.

15 (5) Whether each fire department has used class b
16 firefighting foam containing intentionally added PFAS
17 chemicals in the previous 5 years, whether that use was
18 reported to the Agency, and if not when and where the class
19 b firefighting foam containing intentionally added PFAS
20 chemicals was used.

21 (6) How much, if any, class b firefighting foam
22 containing intentionally added PFAS chemicals the fire
23 department has disposed of and the method of disposal.

24 (b) The Office of the State Fire Marshal shall compile the
25 results of the survey conducted under this Section and provide
26 a report to the General Assembly no later than 90 days

1 following the completion of the survey.

2 (c) The Office of the State Fire Marshal shall assist
3 other State agencies, fire protection districts, and
4 municipalities in avoiding purchasing or using firefighting
5 agents containing PFAS chemicals, as required under Section 10
6 of this Act.

7 Section 30. Firefighting personal protective equipment.

8 (a) On and after January 1, 2022, a manufacturer or person
9 who sells firefighting personal protective equipment to any
10 person, fire department, local government, or State agency
11 must provide written notice to the purchaser at the time of
12 sale if the firefighting personal protective equipment
13 contains intentionally added PFAS chemicals. The written
14 notice must include a statement that the firefighting personal
15 protective equipment being sold contains intentionally added
16 PFAS chemicals and the reason PFAS chemicals are added to the
17 firefighting personal protective equipment.

18 (b) A manufacturer or person who sells firefighting
19 personal protective equipment and the person, fire department,
20 local government, or State agency purchasing firefighting
21 personal protective equipment must retain the notice provided
22 under subsection (a) on file for at least 3 years after the
23 date of the transaction. Upon the request of the Agency, a
24 manufacturer, person, fire department, local government, or
25 State agency must furnish the notice, or copies of the notice,

1 and any associated sales documentation to the Agency not more
2 than 60 days after the Agency's request.

3 Section 35. Food packaging; exemption.

4 (a) On and after January 1, 2022, no person shall
5 knowingly manufacture, sell, offer for sale, distribute for
6 sale, or distribute for use in this State food packaging
7 containing intentionally added PFAS.

8 (b) Subsection (a) shall not apply to food packaging that
9 is sold, offered for sale, or distributed for promotional
10 purposes in this State by a retailer or wholesaler on or after
11 January 1, 2022 if the food packaging was imported into this
12 State, or otherwise purchased or acquired by the retailer or
13 wholesaler for sale or distribution in this State, prior to
14 January 1, 2022.

15 Section 40. PFAS Program Fund. The PFAS Program Fund is
16 created as a special fund in the State treasury. Moneys in the
17 Fund shall be used by the Agency as provided by rules adopted
18 by the Agency.

19 Section 45. Civil penalties. A manufacturer or person who
20 violates this Act is subject to a civil penalty not to exceed
21 \$5,000 for the first violation and a civil penalty not to
22 exceed \$10,000 for each subsequent violation. Civil penalties
23 collected under this Section must be deposited into the

1 Environmental Protection Trust Fund to be used in accordance
2 with the provisions of the Environmental Protection Trust Fund
3 Act.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.