ENGROSSED SUBSTITUTE SENATE BILL 6413

State of Washington 65th Legislature 2018 Regular Session

By Senate Energy, Environment & Technology (originally sponsored by Senators Van De Wege, Wellman, Palumbo, Billig, Hunt, Kuderer, Saldaña, and Chase)

READ FIRST TIME 02/01/18.

AN ACT Relating to reducing the use of certain toxic chemicals in firefighting activities; adding a new chapter to Title 70 RCW; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Class B firefighting foam" means foams designed for flammable liquid fires.

(2) "Department" means the department of ecology.

(3) "Firefighting personal protective equipment" means any clothing designed, intended, or marketed to be worn by firefighting personnel in the performance of their duties, designed with the intent for the use in fire and rescue activities, including jackets, pants, shoes, gloves, helmets, and respiratory equipment.

(4) "Local governments" includes any county, city, town, fire district, regional fire protection authority, or other special purpose district that provides firefighting services.

(5) "Manufacturer" includes any person, firm, association, partnership, corporation, organization, joint venture, importer, or domestic distributor of firefighting agents or firefighting

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equipment. For the purposes of this subsection, "importer" means the owner of the product.

(6) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS chemicals" means, for the purposes of firefighting agents and firefighting equipment, a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

NEW SECTION. **Sec. 2.** (1) Beginning July 1, 2020, a manufacturer of class B firefighting foam may not manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state class B firefighting foam to which PFAS chemicals have been intentionally added.

(2) The restrictions in subsection (1) of this section do not apply to any sale or use of class B firefighting foam where the inclusion of PFAS chemicals are required by federal law, including but not limited to the requirements of 14 C.F.R. 139.317, as that section existed as of January 1, 2018. In the event that applicable federal regulations change after January 1, 2018, to allow the use of alternative firefighting agents that do not contain PFAS chemicals, then the department may adopt rules for the sales and uses of firefighting foam that are addressed by the federal regulation that restrict the use of firefighting foam that contains PFAS chemicals.

NEW SECTION. **Sec. 3.** (1) Beginning July 1, 2018, a manufacturer or other person that sells firefighting personal protective equipment to any person, local government, or state agency must provide written notice to the purchaser at the time of sale if the firefighting personal protective equipment contains PFAS chemicals. The written notice must include a statement that the firefighting personal protective equipment contains PFAS chemicals and the reasons PFAS chemicals are added to the equipment.

(2) The manufacturer or person selling firefighting personal protective equipment and the purchaser of the equipment must retain the notice on file for at least three years from the date of the transaction. Upon the request of the department, a person, manufacturer, or purchaser must furnish the notice, or written copies, and associated sales documentation to the department within sixty days.

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NEW SECTION. **Sec. 4.** (1) A manufacturer of class B firefighting foam restricted under section 2 of this act must notify, in writing, persons that sell the manufacturer's products in this state about the provisions of this chapter no less than one year prior to the effective date of the restrictions.

(2) A manufacturer that produces, sells, or distributes a class B firefighting foam prohibited under section 2 of this act shall recall the product and reimburse the retailer or any other purchaser for the product.

NEW SECTION. **Sec. 5.** (1) The department may request a certificate of compliance from a manufacturer of class B firefighting foam or firefighting personal protective equipment. A certificate of compliance attests that a manufacturer's product or products meets the requirements of this chapter.

(2) The department shall assist the department of enterprise services, other state agencies, fire protection districts, and other local governments to avoid purchasing or using firefighting agents containing PFAS chemicals, as required in section 2 of this act. The department shall assist the department of enterprise services, other state agencies, fire protection districts, and other local governments to give priority and preference to the purchase of firefighting personal protective equipment that does not contain PFAS chemicals.

NEW SECTION. **Sec. 6.** A manufacturer of class B firefighting foam in violation of section 2 or 4 of this act, or a person in violation of section 3 of this act, is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers or persons that are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the state toxics control account created in RCW 70.105D.070.

NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute a new chapter in Title 70 RCW.

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