

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 20-0717.01 Pierce Lively x2059

HOUSE BILL 20-1119

HOUSE SPONSORSHIP

Exum and Landgraf,

SENATE SPONSORSHIP

Hisey and Lee,

House Committees

Energy & Environment
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF THE STATE GOVERNMENT TO**
102 **REGULATE PERFLUOROALKYL AND POLYFLUOROALKYL**
103 **SUBSTANCES, AND, IN CONNECTION THEREWITH, MAKING AN**
104 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill addresses the authority of the state government to regulate perfluoroalkyl and polyfluoroalkyl substances (PFAS).

Section 1 of the bill addresses when PFAS may be used for

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
June 4, 2020

firefighting foam system testing both in general and in certain aircraft hangars.

Section 2 grants the department of public health and environment the power to adopt and enforce standards and regulations that require public drinking water systems to sample drinking water supply sources and finished drinking water for PFAS.

Section 3 clarifies that the water quality control commission may set standards related to PFAS in surface water and groundwater and may require wastewater systems to collect PFAS data relevant to the commission setting PFAS standards.

Section 4 requires the solid and hazardous waste commission to promulgate rules for a certificate of registration for any facility or fire department that possesses PFAS in firefighting agents or firefighting equipment and for standards for the capture and disposal of PFAS in firefighting agents or firefighting equipment.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-33.5-1234, **add** (4), (5), and (6) as follows:

24-33.5-1234. Training restrictions with certain firefighting foams - penalty - exemptions - definitions - repeal. (4) ~~AS OF AUGUST 2, 2019, ANY TESTING AT A STRUCTURE THAT IS USED FOR THE STORAGE OR MAINTENANCE OF AIRCRAFT IS EXEMPT FROM THE FIREFIGHTING FOAM FIRE SYSTEM TESTING RESTRICTIONS IN SUBSECTION (1) OF THIS SECTION, SO LONG AS:~~

(a) THE STRUCTURE IS LOCATED IN AN AIRPORT THAT:

(I) ~~IS A FEDERAL AVIATION ADMINISTRATION-DESIGNATED PUBLIC-USE AIRPORT;~~

(II) IS WITHIN THE STATE OF COLORADO; ~~AND~~

(III) HAS CONSTRUCTED CONTAINMENT SYSTEMS CAPABLE OF CAPTURING ALL DISCHARGED FIREFIGHTING FOAM FOR SUBSEQUENT DISPOSAL IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL

1 REGULATIONS; AND

2 (b) THE FIREFIGHTING FOAM TESTING OCCURS:

3 (I) AS REQUIRED BY THE STANDARDS OF THE NATIONAL FIRE
4 PROTECTION ASSOCIATION, AS STATED IN THE STANDARD ON AIRCRAFT
5 HANGARS NFPA 409, 2016 EDITION, REVISED 2011, AS AMENDED;

6 (II) AS REFERENCED IN THE APPLICABLE BUILDING CODES;

7 (III) AS REQUIRED BY INSURANCE CARRIERS;

8 (IV) IN ACCORDANCE WITH MANUFACTURER RECOMMENDATIONS
9 FOR THE MAINTENANCE OF FIREFIGHTING FOAM SYSTEMS; AND

10 (V) IN ACCORDANCE WITH THE RULES FOR THE CAPTURE AND
11 DISPOSAL OF PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES
12 PROMULGATED BY THE SOLID AND HAZARDOUS WASTE COMMISSION
13 UNDER SECTION 25-15-302 (3.2), TO THE EXTENT THAT THE COMMISSION
14 HAS PROMULGATED SUCH RULES.

15 (5) ANY PERSON OR FIRE DEPARTMENT WHO POSSESSES A
16 CERTIFICATE OF REGISTRATION ISSUED IN ACCORDANCE WITH SECTION
17 25-15-302 (3.2) IS EXEMPT FROM THE FIREFIGHTING FOAM TESTING
18 RESTRICTIONS IN SUBSECTION (1) OF THIS SECTION.

19 (6) SUBSECTIONS (4) AND (5) OF THIS SECTION ARE REPEALED,
20 EFFECTIVE JANUARY 1, 2023.

21

22 **SECTION 2.** In Colorado Revised Statutes, 25-15-302, **add** (3.2)
23 as follows:

24 **25-15-302. Solid and hazardous waste commission - creation**
25 **- membership - rules - fees - administration - definition.** (3.2) (a) THE
26 COMMISSION SHALL PROMULGATE RULES ESTABLISHING A CERTIFICATE OF
27 REGISTRATION FOR ANY FACILITY, FIRE DEPARTMENT, OR LESSEE SUBJECT

1 TO FEDERAL RULES AND REGULATIONS THAT USES OR STORES
2 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES IN ITS
3 OPERATIONS, ESTABLISHING STANDARDS FOR THE CAPTURE AND DISPOSAL
4 OF PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES, AND SETTING
5 PENALTIES FOR NOT OBTAINING SUCH A CERTIFICATE OF REGISTRATION OR
6 FOLLOWING SUCH STANDARDS FOR THE CAPTURE AND DISPOSAL OF
7 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES. THE
8 COMMISSION SHALL TAKE INTO ACCOUNT COSTS, TECHNOLOGICAL
9 FEASIBILITY, AND THE POSSIBILITY OF EMERGENCY SITUATIONS FOR ANY
10 RULES IT PROMULGATES.

11 (b) ANY FACILITY, FIRE DEPARTMENT, OR LESSEE SUBJECT TO
12 FEDERAL RULES AND REGULATIONS THAT USES OR STORES
13 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES IN ITS
14 OPERATIONS MUST OBTAIN THE CERTIFICATE OF REGISTRATION CREATED
15 UNDER SUBSECTION (3.2)(a) OF THIS SECTION EITHER BEFORE JUNE 1,
16 2021, OR SIX MONTHS AFTER IT FIRST OBTAINS PERFLUOROALKYL AND
17 POLYFLUOROALKYL SUBSTANCES, WHICHEVER IS LATER.

18 (c) IN ORDER TO OBTAIN THE CERTIFICATE OF REGISTRATION
19 CREATED UNDER SUBSECTION (3.2)(a) OF THIS SECTION, A FACILITY, FIRE
20 DEPARTMENT, OR LESSEE SUBJECT TO FEDERAL RULES AND REGULATIONS
21 MUST PROVE THAT IT FOLLOWS THE STANDARDS FOR THE CAPTURE AND
22 DISPOSAL OF PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES
23 CREATED UNDER SUBSECTION (3.2)(a) OF THIS SECTION.

24 (d) NO FACILITY, FIRE DEPARTMENT, OR LESSEE SUBJECT TO
25 FEDERAL RULES AND REGULATIONS THAT USES OR STORES
26 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES IN ITS
27 OPERATIONS SHALL BE SUBJECT TO ANY PENALTIES UNDER THIS SECTION

1 FOR NOT OBTAINING A CERTIFICATE OF REGISTRATION UNLESS THERE HAS
2 BEEN A SUFFICIENT OPPORTUNITY TO APPLY FOR AND RECEIVE A
3 CERTIFICATE OF REGISTRATION.

4 (e) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
5 REQUIRES:

6 (I) "PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES"
7 MEANS CLASS B FIREFIGHTING FOAM, AS DEFINED IN SECTION 25-5-1302
8 (2), THAT CONTAIN A CLASS OF FLUORINATED ORGANIC CHEMICALS
9 CONTAINING AT LEAST ONE FULLY FLUORINATED CARBON ATOM.

10 (II) "USES OR STORES" MEANS ACTUAL AND INTENTIONAL
11 OWNERSHIP OR CONTROL OF PERFLUOROALKYL AND POLYFLUOROALKYL
12 SUBSTANCES. "USES OR STORES" DOES NOT MEAN THE INTERCEPTION OR
13 ACCUMULATION OF PERFLUOROALKYL AND POLYFLUOROALKYL
14 SUBSTANCES IN WATER TREATMENT FACILITIES AND DOMESTIC
15 WASTEWATER FACILITIES.

16 **SECTION 3.** In Colorado Revised Statutes, **add** 25-5-1309 as
17 follows:

18 **25-5-1309. Restriction on the use of certain firefighting foam**
19 **at certain airports - definitions.** (1) BEGINNING JANUARY 1, 2023, THE
20 USE OF CLASS B FIREFIGHTING FOAM THAT CONTAINS INTENTIONALLY
21 ADDED PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES SHALL BE
22 PROHIBITED AT STRUCTURES USED FOR THE STORAGE OR MAINTENANCE OF
23 AIRCRAFT WHERE THE STRUCTURE IS LOCATED IN AN AIRPORT THAT:

24 (a) IS A FEDERAL AVIATION ADMINISTRATION-DESIGNATED
25 PUBLIC-USE AIRPORT; AND

26 (b) IS WITHIN THE STATE OF COLORADO.

27 (2) AS USED IN THIS SECTION, "CLASS B FIREFIGHTING FOAM" AND

1 "PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES" HAVE THE
2 SAME MEANING AS THEY ARE DEFINED IN SECTION 25-5-1302.

3 **SECTION 4. Appropriation.** For the 2020-21 state fiscal year,
4 \$43,836 is appropriated to the department of public health and
5 environment for use by the hazardous materials and waste management
6 division. This appropriation is from the hazardous waste service fund
7 created in section 25-15-304, C.R.S., and is based on an assumption that
8 the division will require an additional 0.5 FTE. To implement this act, the
9 division may use this appropriation for administration program costs.

10 **SECTION 5. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, or safety.