

MAINE STATE LEGISLATURE

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L.D. 1505

Date: 6-7-21

(Filing No. H-418)

ENVIRONMENT AND NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1115, L.D. 1505, "An Act To Restrict the Use of Perfluoroalkyl and Polyfluoroalkyl Substances in Firefighting Foam"

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 38 MRS.A §424-C is enacted to read:

§424-C. Perfluoroalkyl and polyfluoroalkyl substances in firefighting or fire-suppressing foam

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Discharge" means a release by any means, including, but not limited to, spilling, leaking, pumping, pouring, spraying, emitting, disposing, escaping, emptying or dumping, whether intentional or unintentional.

B. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in Title 32, section 1732, subsection 5-A.

C. "Person" means a natural person, firm, association, partnership, corporation or trust; the State or any agency of the State; a governmental entity or quasi-governmental entity; the United States or any agency of the United States; or any other legal entity.

2. Discharge prohibited. Beginning January 1, 2022, a person may not discharge or cause to be discharged for testing or training purposes a firefighting or fire-suppressing foam to which PFAS have been intentionally added unless the foam is entirely collected by the person for proper disposal.

Nothing in this subsection prohibits a person from discharging or causing to be discharged in an emergency situation to protect life or property a firefighting or fire-suppressing foam to which PFAS have been intentionally added.

3. Discharge reporting. A person that discharges or causes to be discharged firefighting or fire-suppressing foam to which PFAS have been intentionally added into or

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1 upon any coastal waters, estuary, tidal flat, beach or land adjoining the seacoast of the State
2 or into or upon any lake, pond, river, stream, sewer, surface water drainage, groundwater
3 or other waters of the State or any public or private water supply or onto land adjacent to,
4 on or over such waters of the State shall report the discharge to the department as soon as
5 practicable, but no later than 24 hours after the discharge occurs.

6 **4. Manufacture, sale and distribution prohibited.** Beginning January 1, 2022, a
7 person may not manufacture, sell, offer for sale, distribute for sale or distribute for use in
8 the State a firefighting or fire-suppressing foam to which PFAS have been intentionally
9 added, except when:

10 A. Such foam is manufactured, sold or distributed for use at an oil terminal facility in
11 the State. As used in this paragraph, "oil terminal facility" has the same meaning as in
12 section 542, subsection 7.

13 This paragraph is repealed January 1, 2025; or

14 B. Such foam is manufactured, sold or distributed for use at an airport in the State, as
15 long as the foam is required by federal law or regulation to be used at airports for
16 firefighting or fire-suppressing purposes, including, but not limited to, as required by
17 14 Code of Federal Regulations, Section 139.317 as that section existed on January 1,
18 2021. If, on or after January 1, 2022, no federal law or regulation requires the use of
19 such foam at airports for firefighting or fire-suppressing purposes, the exception in this
20 paragraph to the prohibition in this subsection does not apply.

21 **5. Notice and recall.** Except as provided in subsection 4, paragraph A or B, on or
22 before January 1, 2022, a person that manufactures firefighting or fire-suppressing foam to
23 which PFAS have been intentionally added and, prior to January 1, 2022, sold, offered for
24 sale or distributed such foam for sale or use in the State shall:

25 A. Provide written notification regarding the prohibition in subsection 4 to any person
26 in the State that, prior to January 1, 2022, received such foam from the manufacturer
27 for sale, distribution or use in the State; and

28 B. Issue a recall of all such foam, which must include a process by which a person in
29 the State that received such foam will be reimbursed by the manufacturer for the
30 recalled foam.

31 **6. Administration and enforcement; rules.** The department shall administer and
32 enforce this section and may adopt rules as necessary to implement and administer this
33 section. Rules adopted pursuant to this subsection are routine technical rules as defined in
34 Title 5, chapter 375, subchapter 2-A.

35 **Sec. 2. Framework; report.** In collaboration with the Department of Defense,
36 Veterans and Emergency Management, Maine Emergency Management Agency and
37 interested parties, the Department of Environmental Protection shall develop a framework
38 for the collection and safe storage of firefighting and fire-suppressing foams to which
39 perfluoroalkyl and polyfluoroalkyl substances have been intentionally added that are
40 subject to the manufacturing, sale and distribution prohibition under the Maine Revised
41 Statutes, Title 38, section 424-C, subsection 4 and not returned to the manufacturer of the
42 foam pursuant to a recall issued in accordance with Title 38, section 424-C, subsection 5,
43 paragraph B until the foams can be safely disposed of. On or before March 1, 2022, the
44 department shall submit a report to the Joint Standing Committee on Environment and

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1 Natural Resources that includes the proposed framework and any recommended legislation.
2 The joint standing committee may report out a bill based upon the report to the 130th
3 Legislature.

4 **Sec. 3. Appropriations and allocations.** The following appropriations and
5 allocations are made.

6 **ENVIRONMENTAL PROTECTION, DEPARTMENT OF**
7 **Maine Environmental Protection Fund 0421**

8 Initiative: Provides funding for one part-time Environmental Specialist III position for one
9 year, beginning October 1, 2021 and ending September 30, 2022.

10	GENERAL FUND	2021-22	2022-23
11	POSITIONS - FTE COUNT	0.500	0.500
12	Personal Services	\$31,573	\$12,318
13	All Other	\$2,550	\$1,080
14			
15	GENERAL FUND TOTAL	<u>\$34,123</u>	<u>\$13,398</u>

16
17 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
18 number to read consecutively.

19 **SUMMARY**

20 This amendment replaces the bill and makes the following changes.

21 1. It adds definitions for the terms "discharge" and "person."

22 2. It allocates to the Maine Revised Statutes the unallocated provisions in the bill
23 regarding manufacturer notice and recall of firefighting or fire-suppressing foam to which
24 perfluoroalkyl and polyfluoroalkyl substances, or PFAS, have been intentionally added.

25 3. It clarifies that the prohibition in the bill on the discharge for testing or training
26 purposes of a firefighting or fire-suppressing foam to which PFAS have been intentionally
27 added does not prohibit the discharge of such foam in an emergency situation to protect
28 life or property.

29 4. It adds an exemption to the prohibition in the bill on the manufacture, sale or
30 distribution of firefighting or fire-suppressing foam to which PFAS have been intentionally
31 added for such foam that is manufactured, sold or distributed for use at an oil terminal
32 facility in the State. That exemption is repealed January 1, 2025.

33 5. It directs the Department of Environmental Protection to administer and enforce the
34 provisions of the bill, as amended, and authorizes the department to adopt any rules as
35 necessary.

36 6. It changes the date the report from the Department of Environmental Protection to
37 the Joint Standing Committee on Environment and Natural Resources is due from March
38 31, 2022 to March 1, 2022.

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- 7. It incorporates a number of technical edits and clarifications to the bill.
- 8. It adds an appropriations and allocations section.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



130th MAINE LEGISLATURE

LD 1505

LR 302(02)

An Act To Restrict the Use of Perfluoroalkyl and Polyfluoroalkyl Substances in Firefighting Foam

Fiscal Note for Bill as Amended by Committee Amendment *A(CH-418)*
 Committee: Environment and Natural Resources

Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	\$34,123	\$13,398	\$0	\$0
Appropriations/Allocations				
General Fund	\$34,123	\$13,398	\$0	\$0

Fiscal Detail and Notes

This bill would place certain restrictions on the sale and use of firefighting foam to which PFAS has been intentionally added. The bill directs the Department of Environmental Protection (DEP) to collaborate with other state agencies to develop a framework to address future collection and disposal of these products and report back on the findings. The bill includes appropriations to the DEP of \$34,123 in fiscal year 2021-22 and \$13,398 in fiscal year 2022-23 for one half-time Environmental Specialist III position. The position will begin October 1, 2021 and continue for one year, ending September 30, 2022. Additional costs to the Department of Defense, Veterans and Emergency Management to collaborate with the DEP are anticipated to be minor and can be absorbed within existing budgeted resources.