

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1505

H.P. 1115

House of Representatives, April 15, 2021

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

Received by the Clerk of the House on April 13, 2021. Referred to the Committee on Environment and Natural Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative GRAMLICH of Old Orchard Beach.
Cosponsored by Senator BENNETT of Oxford and
Representatives: DOUDERA of Camden, GROHOSKI of Ellsworth, ZEIGLER of Montville.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 38 MRSA §424-C** is enacted to read:

3 **§424-C. Perfluoroalkyl and polyfluoroalkyl substances in firefighting or fire-**
4 **suppressing foam**

5 **1. Discharge prohibited.** On or after January 1, 2022, a person, local government or
6 state agency may not discharge or cause to be discharged firefighting or fire-suppressing
7 foam to which perfluoroalkyl and polyfluoroalkyl substances have been added for testing
8 or training, unless the foam is entirely collected for proper disposal. For purposes of this
9 section, “perfluoroalkyl and polyfluoroalkyl substances” has the same meaning as in Title
10 32, section 1732, subsection 5-A.

11 **2. Manufacture, sale and distribution prohibited.** On or after January 1, 2022, a
12 manufacturer of a firefighting or fire-suppressing foam may not knowingly manufacture,
13 sell, offer for sale, distribute for sale or distribute for use a foam to which perfluoroalkyl
14 and polyfluoroalkyl substances have been intentionally added.

15 **3. Exception.** Subsection 2 does not apply to any manufacture, sale or distribution of
16 firefighting foam where the inclusion of perfluoroalkyl and polyfluoroalkyl substances is
17 required by federal law or regulation, including the requirements of 14 Code of Federal
18 Regulations, Section 139.317 as that section existed on January 1, 2021. If an applicable
19 federal law or regulation under this subsection changes after January 1, 2021 to allow the
20 use of alternative firefighting agents that do not contain perfluoroalkyl and polyfluoroalkyl
21 substances, subsection 2 applies to any manufacture, sale or distribution of firefighting
22 foam to which perfluoroalkyl and polyfluoroalkyl substances have been intentionally
23 added.

24 **4. Report.** A person that discharges or causes to be discharged firefighting or fire-
25 suppressing foam to which perfluoroalkyl and polyfluoroalkyl substances have been
26 intentionally added into or upon any coastal waters, estuary, tidal flat, beach or land
27 adjoining the seacoast of the State or into or upon any lake, pond, river, stream, sewer,
28 surface water drainage, groundwater or other waters of the State or any public or private
29 water supply or onto land adjacent to, on or over such waters of the State shall report the
30 discharge to the department as soon as practicable, but no later than 24 hours after the
31 discharge occurs.

32 **Sec. 2. Notice.** By January 1, 2022, a manufacturer of firefighting or fire-suppressing
33 foam restricted under the Maine Revised Statutes, Title 38, section 424-C, subsection 2
34 shall notify, in writing, a person that sells the manufacturer's products in the State of the
35 provisions of this Act.

36 **Sec. 3. Recall.** By January 1, 2022, a manufacturer that produces, sells or distributes
37 firefighting or fire-suppressing foam prohibited under the Maine Revised Statutes, Title 38,
38 section 424-C, subsection 2 shall recall the firefighting or fire-suppressing foam and
39 reimburse the retailer or any other purchaser for the foam.

40 **Sec. 4. Framework; report.** The Department of Environmental Protection shall,
41 in collaboration with the Department of Defense, Veterans and Emergency Management,
42 Maine Emergency Management Agency and interested parties, develop a framework for
43 the collection and safe storage of firefighting and fire-suppressing foam prohibited under

1 the Maine Revised Statutes, Title 38, section 424-C, subsection 2 and not returned to the
2 manufacturer until the foam can be safely disposed of. The department shall submit a report
3 to the Joint Standing Committee on Environment and Natural Resources by March 31, 2022
4 that includes a proposed framework and suggested legislation. The Joint Standing
5 Committee on Environment and Natural Resources may report out a bill based upon the
6 report to the Second Regular Session of the 130th Legislature.

7 **SUMMARY**

8 This bill prohibits, beginning January 1, 2022, the discharge of firefighting or fire-
9 suppressing foam to which perfluoroalkyl and polyfluoroalkyl substances have been added
10 when used for testing or training except when the foam is entirely collected for proper
11 disposal. The bill also prohibits, beginning January 1, 2022, the manufacture, sale and
12 distribution of such foam unless federal law requires the inclusion of perfluoroalkyl and
13 polyfluoroalkyl substances in the foam. If federal law is changed to allow an alternative to
14 firefighting or fire-suppressing foam to which perfluoroalkyl and polyfluoroalkyl
15 substances have been added, then the foam may not be manufactured, sold or distributed.
16 A person that discharges or causes to be discharged into the coastal or inland waters of the
17 State firefighting or fire-suppressing foam to which perfluoroalkyl and polyfluoroalkyl
18 substances have been added must notify the Department of Environmental Protection as
19 soon as practicable but no more than 24 hours after the discharge. By January 1, 2022,
20 manufacturers of firefighting or fire-suppressing foam to which perfluoroalkyl and
21 polyfluoroalkyl substances have been added must notify their customers of these
22 requirements and recall the foam and reimburse the retailer or other purchaser for the foam.
23 The Department of Environmental Protection is directed to collaborate with the Department
24 of Defense, Veterans and Emergency Management, Maine Emergency Management
25 Agency and interested parties to develop a framework for the collection and safe storage
26 of firefighting and fire-suppressing foam prohibited by this legislation and not returned to
27 the manufacturer until the foam can be safely disposed of and submit a report including the
28 framework to the Joint Standing Committee on Environment and Natural Resources by
29 March 31, 2022.