

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 4125**

with committee amendments

**STATE OF NEW JERSEY**

DATED: NOVEMBER 30, 2023

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No. 4125 .

This bill, as amended by the committee, would prohibit, beginning two years after the bill's effective date, the sale, manufacture, distribution, and use of any class B firefighting foam containing intentionally added PFAS within the State. As defined in the bill, "perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means substances that include any member of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom and "class B firefighting foam" means foam designed to prevent or extinguish a fire in flammable liquids, combustible liquids, petroleum greases, tars, oils, oil-based paints, solvents, lacquers, alcohols, and flammable gases.

The bill would authorize a temporary exemption for the use of PFAS-containing firefighting foams by certain facilities that have fixed foam fire suppression systems for class B fires and establish certain provisions governing the exemption, and provide that manufacturers and distributors of class B firefighting foam may manufacture, distribute, or sell class B firefighting foam containing intentionally added PFAS to facility owners and operators that are allowed to continue using the foam on a temporary basis. Additionally, the bill would authorize a temporary exemption for the use of PFAS-containing firefighting foams by oil refineries and petroleum terminals, and establish certain provisions governing the exemption.

The bill would require manufacturers of PFAS-containing firefighting foams to notify persons that sell the manufacturer's products in the State about the provisions of the bill, and require manufacturers who manufacture, sell, or distribute PFAS-containing firefighting foams in the State after one year after the bill's effective date to issue a product recall for the firefighting foam no later than 27

months after the bill's effective date and to establish certain provisions governing the recall.

The bill's provisions would not apply to the sale, manufacture, distribution, or use of class B firefighting foam for which the inclusion of PFAS is required by federal law or regulation, including, but not limited to, 14 C.F.R. s.139.317. If a federal requirement to include PFAS in class B firefighting foam is revoked, the bill's provisions would apply one year after the requirement is revoked.

A violation of the bill's provisions would be an unlawful practice pursuant to P.L.1960, c.39 (C.56:8-1 et seq.), commonly known as the State's "Consumer Fraud Act." In addition, a violation can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages, and the awarding of treble damages and costs to the injured.

In addition, the bill would direct the Department of Environmental Protection (DEP) to establish a voluntary program to collect class B firefighting foams containing intentionally added PFAS from fire departments in the State and dispose of the foam in an environmentally sound manner. The bill would appropriate \$250,000 from the General Fund to the DEP in order to provide the initial funding for the collection and disposal program.

#### COMMITTEE AMENDMENTS:

The committee amendments to the bill:

(1) authorize a temporary exemption for the use of PFAS-containing firefighting foams by certain facilities that have fixed foam fire suppression systems for class B fires;

(2) authorize a temporary exemption for the use of PFAS-containing firefighting foams by oil refineries and petroleum terminals, and establish certain provisions governing the exemption;

(3) establish certain conditions for the use of PFAS-containing firefighting foams under the two exemptions listed above;

(4) provide that manufacturers and distributors of class B firefighting foam may manufacture, distribute, or sell class B firefighting foam containing intentionally added PFAS to facility owners and operators that are allowed to continue using the foam on a temporary basis;

(5) require manufacturers of PFAS-containing firefighting foams to notify persons that sell the manufacturer's products in the State about the provisions of the bill;

(6) require manufacturers who manufacture, sell, or distribute PFAS-containing firefighting foams in the State after one year after the bill's effective date to issue a product recall for the firefighting foam no later than 27 months after the bill's effective date, and establish certain provisions governing the recall;

(7) provide that the product recall of class B firefighting foam containing intentionally added PFAS required by the bill does not apply to firefighting foams that are manufactured, sold, or distributed under the exemptions authorized by subsections c. and d. of section 1 of the bill;

(8) provide that the bill's penalty provision would apply to violations of any of the bill's provisions, rather than those in subsection a. of the bill only;

(9) provide that the provisions of section 1 of the bill would not impose any liability on news media that accepts or publishes advertising for any product that may fall within the scope of the bill;

(10) add a new section to the bill, which would direct the DEP to establish a voluntary program to collect class B firefighting foams containing intentionally added PFAS from fire departments in the State and dispose of the foam in an environmentally sound manner; and

(11) appropriate \$250,000 from the General Fund to the DEP, in order to provide the initial funding for the collection and disposal program to be established pursuant to section 2 of the bill.