

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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.**

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

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.

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-33.5-1234, **add**
3 (4), (5), and (6) as follows:

4 **24-33.5-1234. Training restrictions with certain firefighting**
5 **foams - penalty - exemptions - definitions - repeal.** (4) **AS OF AUGUST**
6 **2, 2019, ANY** TESTING AT A STRUCTURE THAT IS USED FOR THE STORAGE
7 OR MAINTENANCE OF AIRCRAFT IS EXEMPT FROM THE FIREFIGHTING FOAM
8 FIRE SYSTEM TESTING RESTRICTIONS IN SUBSECTION (1) OF THIS SECTION,
9 SO LONG AS:

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

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

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

14
15 (III) HAS CONSTRUCTED CONTAINMENT SYSTEMS CAPABLE OF
16 CAPTURING ALL DISCHARGED FIREFIGHTING FOAM FOR SUBSEQUENT
17 DISPOSAL IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL
18 REGULATIONS; AND

1 (b) THE FIREFIGHTING FOAM TESTING OCCURS:

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

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

6 (III) AS REQUIRED BY INSURANCE CARRIERS;

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

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

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

18 (6) SUBSECTIONS (4) AND (5) OF THIS SECTION ARE REPEALED,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

20 [REDACTED]

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

23 **25-15-302. Solid and hazardous waste commission - creation**
24 **- membership - rules - fees - administration - definition.** (3.2) (a) THE
25 COMMISSION SHALL PROMULGATE RULES ESTABLISHING A CERTIFICATE OF
26 REGISTRATION FOR ANY FACILITY, FIRE DEPARTMENT, OR LESSEE SUBJECT
27 TO FEDERAL RULES AND REGULATIONS THAT USES OR STORES

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

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

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

23 (d) NO FACILITY, FIRE DEPARTMENT, OR LESSEE SUBJECT TO
24 FEDERAL RULES AND REGULATIONS THAT USES OR STORES
25 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES IN ITS
26 OPERATIONS SHALL BE SUBJECT TO ANY PENALTIES UNDER THIS SECTION
27 FOR NOT OBTAINING A CERTIFICATE OF REGISTRATION UNLESS THERE HAS

1 BEEN A SUFFICIENT OPPORTUNITY TO APPLY FOR AND RECEIVE A
2 CERTIFICATE OF REGISTRATION.

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

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

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

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

17 **25-5-1309. Restriction on the use of certain firefighting foam**
18 **at certain airports - definitions.** (1) BEGINNING JANUARY 1, 2023, THE
19 USE OF CLASS B FIREFIGHTING FOAM THAT CONTAINS INTENTIONALLY
20 ADDED PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES SHALL BE
21 PROHIBITED AT STRUCTURES USED FOR THE STORAGE OR MAINTENANCE OF
22 AIRCRAFT WHERE THE STRUCTURE IS LOCATED IN AN AIRPORT THAT:

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

25 (b) IS WITHIN THE STATE OF COLORADO.

26 (2) AS USED IN THIS SECTION, "CLASS B FIREFIGHTING FOAM" AND
27 "PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES" HAVE THE

1 SAME MEANING AS THEY ARE DEFINED IN SECTION 25-5-1302.

2 **SECTION 4. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety.