



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 22-0351	Date:	July 20, 2022
Prime Sponsors:	Rep. Cutter; Bradfield Sen. Gonzales; Lee	Bill Status:	Signed into Law
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Bill Topic: PERFLUOROALKYL AND POLYFLUOROALKYL CHEMICALS

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill prohibits the sale or distribution of certain consumer products in the state that contain intentionally-added PFAS chemicals and regulates the use and storage of Class B firefighting foam containing intentionally added PFAS. Beginning in FY 2023-24 it increases state and local government expenditures.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the enacted bill.

**Table 1
State Fiscal Impacts Under HB 22-1345**

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	General Fund	-	\$77,040
	Centrally Appropriated	-	\$33,043
	Total Expenditures	-	\$110,083
	Total FTE	-	0.9 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	-	\$11,556

Summary of Legislation

The bill phases out certain consumer product categories that contain intentionally added PFAS chemicals, regulates the use of class B firefighting foam, and updates the state procurement code.

Consumer products with intentionally added PFAS chemicals. The bill prohibits the sale or distribution of certain consumer product categories that contain intentionally added PFAS chemicals beginning January 1, 2024. Product categories include carpets or rugs, fabric treatments, food packaging, juvenile products, and oil and gas products. Beginning January 1, 2025, cosmetics, indoor textile furnishings, and indoor upholstered furniture containing intentionally added PFAS chemicals are added to the list of prohibited products, and beginning January 1, 2027, outdoor textile furnishings and outdoor upholstered furniture containing intentionally added PFAS chemicals are added to the list of prohibited products.

Beginning January 1, 2024, the bill also requires manufacturers of cookware sold in the state containing intentionally added PFAS in the handle or in any surface that comes into contact with food or beverages to list the presence of PFAS chemicals on the product label in both English and Spanish. It also modifies the state procurement code and restrictions on the use of class B firefighting foam.

Firefighting foam with intentionally added PFAS chemicals. Beginning January 1, 2024, persons using class B firefighting foam containing intentionally added PFAS may not allow a release of the class B firefighting foam, must fully contain the foam through appropriate containment measures, and must safely store all class B firefighting foam and any associated waste and wastewater. If a release of class B firefighting foam does occur, information must be reported within 24 hours to the water quality spills hotline maintained by the CDPHE. The Attorney General is authorized to enforce this provision, conduct civil investigations, and bring civil actions for violations. The bill pushes back by one year, to January 1 2024, the date in which class B firefighting foam containing intentionally added PFAS are prohibited in certain airport structures.

State procurement code. The bill also modifies the definition of environmentally preferable products in the state's procurement code to include products that do not contain intentionally added PFAS.

Background

PFAS chemicals. PFAS chemicals means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom. PFAS chemicals are synthetic chemicals that were developed to coat products to make them heat, water, and oil resistant. They have become prevalent in a variety of products including nonstick cookware, water-repellant clothing, stain-resistant fabrics, and firefighting foams. According to the U.S. Environmental Protection Agency (EPA), there are over 4,000 different types of PFAS chemicals that have been manufactured in the last 70 years.

In 2021, the U.S. EPA established the Council on PFAS and developed the PFAS Strategic Roadmap to better understand and reduce the potential risks caused by these chemicals. More information can be found at www.epa.gov/pfas.

State Revenue

To the extent that CDPHE imposes civil penalties for violations of the class B firefighting foam requirements, state revenue will increase. This revenue is subject to TABOR. This fiscal note assumes that certified professionals who use Class B firefighting foam that contains intentionally added PFAS chemicals will comply with these requirements.

State Expenditures

The bill increases state expenditures in the CDPHE by \$110,083 and 1.0 FTE beginning in FY 2023-24 and ongoing from the General Fund. These costs are detailed in Table 2 and described below.

Table 2
Expenditures Under HB 22-1345

	FY 2022-23	FY 2023-24
Department of Public Health and Environment		
Personal Services	-	\$69,490
Operating Expenses	-	\$1,350
Capital Outlay Costs	-	\$6,200
Centrally Appropriated Costs ¹	-	\$33,043
Total Cost	-	\$110,083
Total FTE	-	0.9 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Public Health and Environment. Beginning in FY 2023-24, the CDPHE will hire 1.0 FTE environmental protection specialist to ensure facilities adhere to the safe storage and notification of releases as required in the bill. Based on an existing registry, there are approximately 160 facilities registered as storing Class B firefighting foam containing intentionally added PFAS chemicals. These personal services costs are prorated for the General Fund paydate shift.

Department of Law. The department may have an increase in workload to investigate violations. The fiscal note assumes that the department will assess cases based on priorities and conduct investigations within existing appropriations.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

General Fund Reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amount listed in Table 1, which will decrease the amount of General Fund available for other purposes.

Local Government

Beginning January 1, 2024, local governments that use class B firefighting foam may incur expenditures to adhere to the storage and containment requirements of the bill.

Effective Date

This bill was signed into law by the Governor and took effect on June 3, 2022.

State and Local Government Contacts

Counties	Fire Chiefs	Information Technology
Judicial	Law	Municipalities
Natural Resources	Personnel	Public Health and Environment
Public Safety		