A BILL FOR AN ACT

CONCERNING THE AUTHORITY OF THE STATE GOVERNMENT TO REGULATE PERFLUOROALKYL AND POLYFLUOROALKYL 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.
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.

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

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

24-33.5-1234. Training restrictions with certain firefighting foams - penalty - exemptions - definitions. (4) Any testing at a structure that is used for the storage or maintenance of aircraft is exempt from the firefighting foam fire system testing restrictions in subsection (1) of this section, so long as:

(a) The structure is located in an airport that:

(I) Has been certified by the Federal Aviation Administration in accordance with 14 CFR 139;

(II) Is within the state of Colorado;

(III) Serves at least twenty million passengers per year;

and

(IV) Has constructed containment systems capable of capturing all discharged firefighting foam for subsequent disposal in accordance with applicable state and federal regulations; and
(b) The firefighting foam testing occurs:

(I) As required by the standards of the National Fire Protection Association, as stated in hazardous chemicals data, NFPA 49, 1994 edition, revised 2001, as amended;

(II) As referenced in the applicable building codes;

(III) As required by insurance carriers;

(IV) In accordance with manufacturer recommendations for the maintenance of firefighting foam systems; and

(V) After the solid and hazardous waste commission promulgates rules under section 25-15-302 (3.2), in accordance with the rules for the capture and disposal of perfluoroalkyl and polyfluoroalkyl substances promulgated by the solid and hazardous waste commission under section 25-15-302 (3.2).

(5) Any person or fire department who possesses a certificate or registration issued in accordance with section 25-15-302 (3.2) is exempt from the firefighting foam testing restrictions in subsection (1) of this section.

SECTION 2. In Colorado Revised Statutes, 25-1.5-203, add (1)(b)(III) as follows:

25-1.5-203. Water - powers and duties of department - rules - repeal. (1) The department has, in addition to all other powers and duties imposed upon it by law, the powers and duties provided in this section as follows:

(b) Quality of drinking water. (III) Standards and regulations adopted pursuant to this subsection (1)(b) may also require public drinking water systems to sample drinking water supply sources and finished drinking water for perfluoroalkyl
AND POLYFLUOROALKYL SUBSTANCES, AS DEFINED IN SECTION 25-5-1302 (7).

SECTION 3. In Colorado Revised Statutes, 25-8-202, add (9) as follows:

25-8-202. Duties of commission - rules. (9) THE COMMISSION MAY ADOPT STANDARDS AND REGULATIONS, BY RULE, RELATED TO PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES, AS DEFINED IN SECTION 25-5-1302 (7), IN SURFACE WATER AND GROUNDWATER AND MAY REQUIRE WASTEWATER SYSTEMS TO COLLECT PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES DATA.

SECTION 4. In Colorado Revised Statutes, 25-15-302, add (3.2) as follows:

25-15-302. Solid and hazardous waste commission - creation - membership - rules - fees - administration - definition. (3.2) (a) THE COMMISSION SHALL PROMULGATE RULES ESTABLISHING A CERTIFICATE OF REGISTRATION FOR ANY FACILITY OR FIRE DEPARTMENT THAT POSSESSES PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES, ESTABLISHING STANDARDS FOR THE CAPTURE AND DISPOSAL OF PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES, AND SETTING PENALTIES FOR NOT OBTAINING SUCH A CERTIFICATE OF REGISTRATION OR FOLLOWING SUCH STANDARDS FOR THE CAPTURE AND DISPOSAL OF PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES.

(b) ANY FACILITY OR FIRE DEPARTMENT THAT POSSESSES PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES MUST OBTAIN THE CERTIFICATE OF REGISTRATION CREATED UNDER SUBSECTION (3.2)(a) OF THIS SECTION EITHER BEFORE JUNE 1, 2021, OR SIX MONTHS AFTER IT FIRST OBTAINS PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES,
WHICHEVER IS LATER.

(c) IN ORDER TO OBTAIN THE CERTIFICATE OF REGISTRATION CREATED UNDER SUBSECTION (3.2)(a) OF THIS SECTION, A FACILITY OR FIRE DEPARTMENT MUST PROVE THAT IT FOLLOWS THE STANDARDS FOR THE CAPTURE AND DISPOSAL OF PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES CREATED UNDER SUBSECTION (3.2)(a) OF THIS SECTION.

(d) AS USED IN THIS SECTION, "PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES" MEANS FIREFIGHTING AGENTS AND EQUIPMENT THAT CONTAIN A CLASS OF FLUORINATED ORGANIC CHEMICALS CONTAINING AT LEAST ONE FULLY FLUORINATED CARBON ATOM.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.