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HOUSE BILL 20-1119

BY REPRESENTATIVE(S) Exum and Landgraf, Benavidez, Bird, Buckner, Buentello, Caraveo, Coleman, Cutter, Duran, Esgar, Froelich, Geitner, Gray, Herod, Jackson, Jaquez Lewis, Kennedy, Kipp, McCluskie, McKean, McLachlan, Melton, Mullica, Roberts, Snyder, Tipper, Titone, Valdez A., Valdez D., Weissman, Young, Becker;
also SENATOR(S) Hisey and Lee, Bridges, Crowder, Fenberg, Fields, Ginal, Gonzales, Moreno, Pettersen, Priola, Story, Tate, Winter, Zenzinger, Garcia.

CONCERNING THE AUTHORITY OF THE STATE GOVERNMENT TO REGULATE PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

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

24-33.5-1234. Training restrictions with certain firefighting foams - penalty - exemptions - definitions - repeal. (4) AS OF AUGUST 2, 2019, ANY TESTING AT A STRUCTURE THAT IS USED FOR THE STORAGE OR MAINTENANCE OF AIRCRAFT IS EXEMPT FROM THE FIREFIGHTING FOAM FIRE

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

SYSTEM TESTING RESTRICTIONS IN SUBSECTION (1) OF THIS SECTION, SO LONG AS:

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

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

(II) IS WITHIN THE STATE OF COLORADO; AND

(III) 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 THE STANDARD ON AIRCRAFT HANGARS NFPA 409, 2016 EDITION, REVISED 2011, 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) 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), TO THE EXTENT THAT THE COMMISSION HAS PROMULGATED SUCH RULES.

(5) ANY PERSON OR FIRE DEPARTMENT WHO POSSESSES A CERTIFICATE OF 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.

(6) SUBSECTIONS (4) AND (5) OF THIS SECTION ARE REPEALED,

EFFECTIVE JANUARY 1, 2023.

SECTION 2. 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, FIRE DEPARTMENT, OR LESSEE SUBJECT TO FEDERAL RULES AND REGULATIONS THAT USES OR STORES PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES IN ITS OPERATIONS, 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. THE COMMISSION SHALL TAKE INTO ACCOUNT COSTS, TECHNOLOGICAL FEASIBILITY, AND THE POSSIBILITY OF EMERGENCY SITUATIONS FOR ANY RULES IT PROMULGATES.

(b) ANY FACILITY, FIRE DEPARTMENT, OR LESSEE SUBJECT TO FEDERAL RULES AND REGULATIONS THAT USES OR STORES PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES IN ITS OPERATIONS 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, FIRE DEPARTMENT, OR LESSEE SUBJECT TO FEDERAL RULES AND REGULATIONS 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) NO FACILITY, FIRE DEPARTMENT, OR LESSEE SUBJECT TO FEDERAL RULES AND REGULATIONS THAT USES OR STORES PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES IN ITS OPERATIONS SHALL BE SUBJECT TO ANY PENALTIES UNDER THIS SECTION FOR NOT OBTAINING A CERTIFICATE OF REGISTRATION UNLESS THERE HAS BEEN A SUFFICIENT OPPORTUNITY TO APPLY FOR AND RECEIVE A CERTIFICATE OF REGISTRATION.

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

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

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

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

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

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

(b) IS WITHIN THE STATE OF COLORADO.

(2) AS USED IN THIS SECTION, "CLASS B FIREFIGHTING FOAM" AND "PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES" HAVE THE SAME MEANING AS THEY ARE DEFINED IN SECTION 25-5-1302.

SECTION 4. Appropriation. For the 2020-21 state fiscal year, \$43,836 is appropriated to the department of public health and environment for use by the hazardous materials and waste management division. This appropriation is from the hazardous waste service fund created in section 25-15-304, C.R.S., and is based on an assumption that the division will require an additional 0.5 FTE. To implement this act, the division may use this appropriation for administration program costs.

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.

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO