

CS FOR SENATE BILL NO. 121()

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): SENATORS KIEHL, Gray-Jackson, Kawasaki, Stevens, Begich, Costello, Wielechowski

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to pollutants; relating to perfluoroalkyl and polyfluoroalkyl
2 substances; relating to the duties of the Department of Environmental Conservation;
3 relating to firefighting substances; relating to thermal remediation of perfluoroalkyl and
4 polyfluoroalkyl substance contamination; and providing for an effective date."

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

6 * **Section 1.** AS 46.03 is amended by adding new sections to read:

7 **Article 5A. Perfluoroalkyl and Polyfluoroalkyl Substances.**

8 **Sec. 46.03.340. Testing; drinking water.** (a) The department shall
9 ensure the responsible party tests for perfluoroalkyl substances and polyfluoroalkyl
10 substances in all drinking water used in the state that is in a water supply located in the
11 state when a perfluoroalkyl substance or polyfluoroalkyl substance is released in the
12 area of the water supply. If a test conducted under this subsection detects a
13 perfluoroalkyl substance or polyfluoroalkyl substance at a level equal to or greater
14 than the limit described in (b) of this section, the department shall ensure the

1 responsible party provides a person who routinely uses the tested drinking water, at no
2 cost to the person, a source of drinking water containing levels of perfluoroalkyl
3 substances and polyfluoroalkyl substances lower than the limits described in (b) of this
4 section.

5 (b) For purposes of (a) of this section, the limit of perfluoroalkyl substance or
6 polyfluoroalkyl substance contamination in water is the lesser of

7 (1) the limit established by the department in regulation; or
8 (2) the following limits:

| SUBSTANCE | CUTOFF CONCENTRATION (parts per trillion) |
|--------------------------------------|--|
| perfluorobutanesulfonic acid | 420 |
| perfluoroctanoic acid | 8 |
| perfluoroctanesulfonic acid | 16 |
| perfluorononanoic acid | 6 |
| perfluorohexanesulfonic acid | 51 |
| perfluoroheptanoic acid | 400,000 |
| hexafluoropropylene oxide dimer acid | 370. |

18 **Sec. 46.03.345. Liability for drinking water and drinking water testing. (a)**

19 A person who causes a fire that results in a release of a firefighting substance
20 containing a perfluoroalkyl substance or polyfluoroalkyl substance is liable for the
21 costs of providing drinking water and drinking water testing under AS 46.03.340. This
22 subsection does not apply to a release of a firefighting substance to extinguish a fire in
23 a residential building or motor vehicle.

24 (b) A government agency that requires a release of a firefighting substance
25 that contains a perfluoroalkyl substance or polyfluoroalkyl substance is liable for the
26 costs of providing drinking water and drinking water testing under AS 46.03.340 for
27 the required release.

28 (c) A person who extinguishes a fire by releasing a firefighting substance that
29 contains a perfluoroalkyl substance or polyfluoroalkyl substance is not liable for the
30 costs of providing drinking water and drinking water testing under AS 46.03.340 or
31 site cleanup under this chapter, AS 46.08, AS 46.09, or another state law unless the

firefighting substance was released for training or testing purposes.

(d) The liability of a person or agency for costs under this section is in addition to other liability under this chapter, AS 46.08, AS 46.09, or other state law for a release of a perfluoroalkyl substance or polyfluoroalkyl substance.

(e) In this section,

(1) "motor vehicle" has the meaning given in AS 28.90.990, but does not include a commercial motor vehicle, as defined in AS 28.90.990;

(2) "residential building" has the meaning given in AS 18.60.780.

Sec. 46.03.350. Use of firefighting substances. (a) A person engaged in the business of oil or gas production, transmission, transportation, or refining may use a firefighting substance that contains a perfluoroalkyl substance or polyfluoroalkyl substance in the state unless the state fire marshal adopts regulations under (b) of this section requiring use of an alternative firefighting substance.

(b) If the state fire marshal determines an alternative firefighting substance listed by an organization recognized by the federal Occupational Safety and Health Administration's Nationally Recognized Testing Laboratory Program is safe and effective, the state fire marshal shall adopt regulations requiring use of the alternative firefighting substance. The regulations must state the proposed effective date of the regulations.

(c) The department shall accept for disposal from a person domiciled in the state a firefighting substance that contains a perfluoroalkyl substance or polyfluoroalkyl substance in a quantity not to exceed 25 gallons each year.

(d) Notwithstanding AS 46.03.320 and except as provided in (a) of this section, a person may not use a firefighting substance that contains a perfluoroalkyl substance or polyfluoroalkyl substance in the state unless the use is required by federal law.

Sec. 46.03.355. Thermal remediation permit. A facility that thermally remediates a perfluoroalkyl or polyfluoroalkyl substance contamination must have a permit from the department under 42 U.S.C. 7661 - 7661f (Clean Air Act, secs. 501 - 507) authorizing the remediation. The department may not issue a permit or allow a facility to retain a permit issued under this section if the department determines that

1 the remediation will result in the release of more than a minimal amount of an airborne
2 compound with a carbon-fluorine bond detectable through source testing. Source
3 testing under this section must include testing of all compounds with a carbon-fluorine
4 bond for which the United States Environmental Protection Agency has approved a
5 testing methodology.

6 **Sec. 46.03.359. Definitions.** In AS 46.03.340 - 46.03.359, "perfluoroalkyl
7 substance" and "polyfluoroalkyl substance" include

- 8 (1) perfluoroctanoic acid;
- 9 (2) perfluoroctanesulfonic acid;
- 10 (3) perfluorononanoic acid;
- 11 (4) perfluorohexanesulfonic acid;
- 12 (5) perfluoroheptanoic acid;
- 13 (6) perfluorobutanesulfonic acid;
- 14 (7) hexafluoropropylene oxide dimer acid;
- 15 (8) other perfluoroalkyl substances or polyfluoroalkyl substances
16 specified by the department in regulation.

17 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 APPLICABILITY; RETROACTIVITY. AS 46.03.345, added by sec. 1 of this Act,
20 applies retroactively to a release of a perfluoroalkyl substance or polyfluoroalkyl substance
21 occurring before, on, or after the effective date of sec. 1 of this Act.

22 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 TRANSITION: REGULATIONS. The Department of Environmental Conservation
25 shall adopt regulations necessary to implement this Act. The regulations take effect under
26 AS 44.62 (Administrative Procedure Act), but not before the effective date of the law
27 implemented by the regulation.

28 * **Sec. 4.** Sections 2 and 3 of this Act take effect immediately under AS 01.10.070(c).

29 * **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2023.