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Explanation of Changes in CSHB 240 Version A to Version M “Regulate PFAS Use; Fire/Water Safety”

The House Resources Committee adopted a Committee Substitute that addressed matters of liability, clarified a section on the prohibition of using PFAS-containing firefighting foams, and made additional minor changes.

In the title of the bill, on page one, line 3, “and” was deleted, and following “substances,” “and providing for an effective date” was inserted.

On page 1, line 8 “periodically test” was deleted and “ensure periodic testing” was inserted. This is to make sure the polluter pays, rather than suggest the Department of Environmental Conservation pays no matter who is responsible.

On page 2, following line 29, a new section was inserted stating that a person/entity who causes a fire that results in a release of PFAS-containing substances is liable for the costs of providing drinking water testing and blood testing under section 46.03.340 of the bill. However, this liability doesn’t apply to use of PFAS-containing foams to extinguish a fire in a residential building or motor vehicle.

This section also states that persons using PFAS-containing substances to extinguish a fire (i.e. fire departments) are not liable for the aforementioned testing costs.

The section also makes reference to statutory definitions for “motor vehicle” and “residential building.”

On page 2, line 30 through page 3, line 5 all language was deleted. This subsection was replaced **on page 3, following line 16** with a new language clarifying that all users except for the oil & gas industry must stop using PFAS-containing firefighting foams on October 4th, 2021. That is the date when the Federal Aviation Administration will no longer require PFAS foams to be used in airport firefighting. Anyone required to use PFAS under another federal law is exempt from the prohibition.

On page 2, line 30, a statute section was renumbered.

On page 3, line 6 and on page 3, line 12, following “transmission,” “transportation” was inserted. This adds transportation to the oil & gas industry activities for which PFAS still can be used. The addition was suggested in order to make it clear that the oil & gas transmission exemption isn’t limited to pipeline transmission.

On page 3, line 9, a subparagraph citation was re-lettered.

On page 3, following line 27, new bill sections were inserted.

The first addresses retroactive applicability of the liability sections of the act.

The second adds transition language regarding the adoption of regulations for implementing the act and the effective date of those regulations.

The third gives an immediate effective date to sections 2 and 3 of the act.

The fourth provides an effective date of October 4th, 2021 to the prohibition on the use of PFAS in section 1 of the bill.

The fifth provides for an effective date of January 1, 2021, except for the aforementioned sections of the act given an immediate effective date.