

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 355
PROPOSED COMMITTEE SUBSTITUTE H355-PCS10447-BW-11

Short Title: Firefighting Foam Registry/PFAS Ban.

(Public)

Sponsors:

Referred to:

March 23, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE MANDATORY REPORTING OF AQUEOUS FILM-FORMING
3 FOAM USAGE AND INVENTORY BY NORTH CAROLINA FIRE DEPARTMENTS,
4 TO CREATE AN ONLINE PORTAL TO TRACK FOAM USAGE, AND TO BAN THE
5 USE OF CERTAIN FIRE RETARDANT FOAM CONTAINING PFAS FOR TRAINING,
6 PRACTICE, OR TESTING.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Chapter 58 of the General Statutes is amended by adding a new Article
9 to read:

10 "Article 82B.

11 "Management of Aqueous Film-Forming Foams.

12 **"§ 58-82B-1. Findings.**

13 The General Assembly finds that certain firefighting foams used to fight Class B fires, often
14 referred to as Aqueous Film-Forming Foams (AFFF), are critical for fire suppression and public
15 safety. However, because many AFFF could contain per- and poly-fluoroalkyl substances,
16 certain foams may require additional research, oversight, and management. The General
17 Assembly further finds that accurate and comprehensive reporting of the use of AFFF by fire
18 departments throughout the State is essential in order to appropriately manage the potential
19 impacts of AFFF on the environment and public health.

20 **"§ 58-82B-5. Reporting requirement.**

21 Fire departments operated, regulated, or managed by one or more units of State and local
22 government, including those located at or serving public airports, in partnership with the Office
23 of State Fire Marshal (OSFM), shall, no later than July 1, 2022, and annually thereafter, do all of
24 the following:

25 (1) Provide an inventory of all AFFF at each department.

26 (2) Identify all AFFF no longer utilized at each department that should be
27 properly disposed of.

28 (3) Report annually in summary form and within 15 days individually every
29 incident where AFFF were deployed. Both the annual summary report and the
30 individual incident reports shall utilize the online portal created as directed by
31 G.S. 58-82B-10.

32 **"§ 58-82B-10. Duties of Office of State Fire Marshal.**

33 The Office of State Fire Marshal (OSFM) shall do all of the following:

34 (1) Educate and inform every fire department it regulates of the reporting
35 requirements imposed by this Article.



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1 (2) Assist the North Carolina Policy Collaboratory at the University of North
2 Carolina at Chapel Hill in the development of an online reporting portal for
3 fire departments operated, regulated, or managed by one or more units of State
4 and local government, including those located at or serving public airports,
5 with the requirements of this act.

6 (3) Adopt rules to implement the requirements of this Article. OSFM may adopt
7 temporary rules and shall adopt permanent rules no later than July 1, 2022.

8 **"§ 58-82B-15. Report.**

9 The Office of State Fire Marshal (OSFM) shall report annually to the Environmental Review
10 Commission no later than September 1 of each year on the utilization and inventory of AFFF by
11 fire departments across the State during the previous fiscal year based on the reporting
12 requirements of this Article."

13 **SECTION 2.** Online Reporting Portal. – The North Carolina Policy Collaboratory
14 at the University of North Carolina at Chapel Hill (Collaboratory), in collaboration with the
15 Office of State Fire Marshal and any unit of State and local government deemed relevant by the
16 Collaboratory, shall develop and maintain the online reporting portal required by
17 G.S. 58-82B-10, as enacted by Section 1 of this act. The portal shall consist of an online reporting
18 tool and related database that captures the storage and deployment of Aqueous Film-Forming
19 Foams (AFFF) by fire departments in the State that are operated, managed, or overseen by units
20 of local government, including those located at or serving public airports. This reporting tool
21 shall be easily accessible to firefighters and fire department personnel to upload the data required
22 by this act. The required inventory data shall include, at a minimum, the following:

- 23 (1) The number of trucks at each department that carry AFFF and the volume,
24 trade name, and CAS number of the AFFF on each truck.
- 25 (2) The fire station (including street address) where each truck is located.
- 26 (3) The volume, trade name, and CAS number of AFFF stored by each fire
27 department or unit of local government at a station or other location, as well
28 as the address of each location where AFFF are stored.
- 29 (4) The volume, trade name, and CAS number of AFFF products that are no
30 longer utilized and could be removed from inventory for disposal.
- 31 (5) The volume of AFFF used by each fire department annually, including all of
32 the following:
- 33 a. The date, time, and location, including street address and GPS
34 coordinates, where AFFF was deployed, and the trade name and CAS
35 number of the AFFF used.
- 36 b. The total volume of AFFF deployed, including gallons of foam and
37 gallons of water and total concentration of foam.
- 38 c. The reason for the deployment of AFFF (such as firefighting, fire
39 prevention, other emergency response actions intended to protect
40 property or public safety, training, or an accidental spill).
- 41 (6) A photograph of the label and the container of the foam. For the purpose of
42 this subdivision, a photograph includes an electronic image produced by the
43 camera of an electronic device.
- 44 (7) Any other data deemed relevant by the Collaboratory to establish a statewide
45 inventory of AFFF used for fighting fires or firefighter training.

46 OSFM and all units of local government shall provide any information or assistance
47 requested by the Collaboratory to acquire, compile, manage, interpret, and maintain the data
48 required by this section. The tool and database required by this section shall be online and
49 operational no later than June 1, 2022.

50 **SECTION 3.** Article 21A of Chapter 143 of the General Statutes is amended by
51 adding a new Part to read:

1 "Part 8. Responsible Firefighting Foam Management Act.

2 "§ 143-215.104LL. Definitions.

3 The following definitions apply in this Part:

- 4 (1) Class B firefighting foam. – Foams designed for flammable liquid fires.
5 (2) PFAS chemicals. – Per-fluoroalkyl and poly-fluoroalkyl substances that are a
6 group of manufactured chemicals containing at least two fully fluorinated
7 carbon atoms, excluding polymers, gases, and volatile liquids, and designed
8 to be fully functional in Class B firefighting foam.
9 (3) Testing. – Any calibration, conformance, or fixed system testing of Class B
10 firefighting foam.
11 (4) Testing facility. – A facility that allows the discharge of Class B firefighting
12 foam for testing in nonemergency situations.

13 "§ 143-215.104MM. Prohibition of certain firefighting foams for training, practice, or
14 testing.

15 (a) No person, local government, or State agency may discharge for training or practice
16 purposes Class B firefighting foam that contains intentionally added PFAS chemicals.

17 (b) No person, local government, or State agency may discharge for testing purposes
18 Class B firefighting foam that contains intentionally added PFAS chemicals unless otherwise
19 required by law or an authority having jurisdiction, and a testing facility has implemented
20 appropriate containment, treatment, and disposal measures to prevent releases of Class B
21 firefighting foam into the environment.

22 (c) Non-fluorinated training foams or other non-fluorinated surrogates shall be used for
23 firefighting training, and training shall be conducted under conditions conducive to the collection
24 of spent foam regardless of foam type.

25 (d) The Office of State Fire Marshal may adopt rules to implement this Part."

26 **SECTION 4.** This act is effective when it becomes law.