A BILL TO BE ENTITLED
AN ACT TO BAN THE MANUFACTURE, USE, AND DISTRIBUTION OF PFAS AND PFAS-CONTAINING PRODUCTS WITHIN THE STATE IN ORDER TO PROTECT PUBLIC HEALTH.

The General Assembly of North Carolina enacts:

PART I. BAN PFAS

SECTION 1. Article 21A of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 8. Ban Manufacture, Use, and Distribution of Certain Toxic Chemicals,

§ 143-215.104LL. Prohibition on manufacture, use, and distribution of PFAS within the State.

(a) No person may knowingly do any of the following:

(1) Manufacture PFAS for use within the State or manufacture PFAS for export from the State.

(2) Use any PFAS for the production of any product within the State, or for export from the State, except for products specifically authorized or required to contain PFAS under federal law.

(3) Process or distribute in commerce any PFAS, or any product containing PFAS, for use within the State or for export from the State, except for products specifically authorized or required to contain PFAS under federal law.

(b) For purposes of this section, "PFAS" means per-fluoroalkyl and poly-fluoroalkyl substances, a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

§ 143-215.104MM. Civil penalties.

(a) The Secretary may assess a civil penalty of not more than five thousand dollars ($5,000) or, if the violation involves a hazardous waste, as defined in G.S. 130A-290, of not more than twenty-five thousand dollars ($25,000) against any person who violates a requirement of this Part.

(b) If any action or failure to act for which a penalty may be assessed under subsection (a) of this section is a repeat offense, the Secretary may assess a penalty not to exceed ten thousand dollars ($10,000) per occurrence. A penalty for multiple occurrences shall not exceed two hundred thousand dollars ($200,000) in any month.

(c) In determining the amount of the penalty, the Secretary shall consider the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.
(d) The Secretary shall notify any person assessed a civil penalty for the assessment and the specific reasons therefor by registered or certified mail or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed pursuant to G.S. 150B-23 within 30 days of receipt of the notice of assessment.

(e) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless made within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and (d), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver the remission request and the recommended action to the Committee on Civil Penalty Remissions of the Environmental Management Commission appointed pursuant to G.S. 143B-282.1(c).

(f) If any civil penalty has not been paid within 30 days after notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or the violator’s principal place of business is located in order to recover the amount of the assessment, unless the violator contests the assessment as provided in subsection (d) of this section or requests remission of the assessment in whole or in part as provided in subsection (e) of this section. If any civil penalty has not been paid within 30 days after the final agency decision or order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or the violator’s principal place of business is located to recover the amount of the assessment. A civil action must be filed within three years of the date the final agency decision or court order was served on the violator."

PART II. FUNDING FOR PFAS MONITORING AND ENFORCEMENT

SECTION 2. There is appropriated from the General Fund to the Department of Environmental Quality the sum of one hundred thousand dollars ($100,000) in nonrecurring funds for the 2021-2022 fiscal year to fund additional monitoring and enforcement activities to address PFAS contamination in the State.

PART III. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 3. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

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