

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL DRH40355-CCa-7

Short Title: PFAS Free NC.

(Public)

Sponsors: Representative Harrison.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO BAN THE MANUFACTURE, USE, AND DISTRIBUTION OF PFAS AND
3 PFAS-CONTAINING PRODUCTS WITHIN THE STATE, TO IMPLEMENT
4 MEASURES TO PREVENT AND ADDRESS CONTAMINATION FROM THE
5 DISCHARGE OF PFAS IN THE STATE, AND TO DIRECT VARIOUS AGENCIES TO
6 STUDY MATTERS ASSOCIATED WITH PFAS CONTAMINATION IN ORDER TO
7 PROTECT THE PUBLIC HEALTH.

8 The General Assembly of North Carolina enacts:

9
10 **PART I. BAN PFAS**

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

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

14 **"§ 143-215.104LL. Prohibition on manufacture, use, and distribution of PFAS within the**
15 **State.**

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

- 17 (1) Manufacture PFAS for use within the State or manufacture PFAS for export
18 from the State.
19 (2) Use any PFAS for the production of any product within the State, or for export
20 from the State, except for products specifically authorized or required to
21 contain PFAS under federal law.
22 (3) Process or distribute in commerce any PFAS, or any product containing
23 PFAS, for use within the State or for export from the State, except for products
24 specifically authorized or required to contain PFAS under federal law.

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

28 **"§ 143-215.104MM. Civil penalties.**

29 (a) The Secretary may assess a civil penalty of not more than five thousand dollars
30 (\$5,000) or, if the violation involves a hazardous waste, as defined in G.S. 130A-290, of not more
31 than twenty-five thousand dollars (\$25,000) against any person who violates a requirement of
32 this Part.

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



1 (c) In determining the amount of the penalty, the Secretary shall consider the factors set
2 out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty
3 assessments that are presented to the Commission for final agency decision.

4 (d) The Secretary shall notify any person assessed a civil penalty for the assessment and
5 the specific reasons therefor by registered or certified mail or by any means authorized by
6 G.S. 1A-1, Rule 4. Contested case petitions shall be filed pursuant to G.S. 150B-23 within 30
7 days of receipt of the notice of assessment.

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

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

29 **PART II. REQUIREMENTS FOR POLLUTANT DISCHARGE DISCLOSURE; PFAS** 30 **DISCHARGE LIMITATIONS**

31 **SECTION 2. G.S. 143-215.1 reads as rewritten:**

32 **"§ 143-215.1. Control of sources of water pollution; permits required.**

33 ...

34 (l) The Department shall require that every person applying for an individual National
35 Pollutant Discharge Elimination System (NPDES) permit fully disclose in their application for a
36 new permit, or for a permit renewal, each pollutant in the person's discharge that is reasonably
37 expected to be at or above the practical quantitation limit (PQL) for the pollutant. The pollutant's
38 concentration to be discharged shall be disclosed, as well as the chemical abstracts service (CAS)
39 number for each pollutant if available. If the CAS number is unavailable, the pollutant shall
40 otherwise be described in sufficient detail so as to adequately inform the Department of the
41 pollutant's characteristics.

42 (m) Any person who is required to obtain a National Pollutant Discharge Elimination
43 System (NPDES) permit under this Article that receives waste from an industrial user, as that
44 term is defined under 15A NCAC 02H .0903, shall require the industrial user to disclose in the
45 industrial user's application for a new pretreatment permit, or for a pretreatment permit renewal,
46 each pollutant in the industrial user's discharge that is at or above the practical quantitation limit
47 (PQL) for the pollutant.

48 (n) Any person who is required to obtain a National Pollutant Discharge Elimination
49 System (NPDES) permit under this Article that receives waste from an industrial user that
50 includes PFAS shall eliminate the PFAS prior to discharge into waters of the State, and if
51 elimination of PFAS by the NPDES permittee prior to discharge to waters of the State is

1 economically or otherwise impracticable, the NPDES permittee shall require the industrial user
2 to eliminate the PFAS from the user's discharge. For purposes of this section, "PFAS" means
3 per-fluoroalkyl and poly-fluoroalkyl substances, a class of fluorinated organic chemicals
4 containing at least one fully fluorinated carbon atom."
5

6 **PART III. CUSTOMER NOTIFICATION OF DRINKING WATER SAMPLING** 7 **RESULTS**

8 **SECTION 3.(a)** G.S. 130A-329 reads as rewritten:

9 **"§ 130A-329. ~~Reporting.~~Reporting and customer notification.**

10 (a) Reports required to be submitted under this Article or under rules adopted by the
11 Commission shall be submitted electronically on a form specified by the Department. The
12 Department may waive the requirement for electronic submission of a report if the water system
13 demonstrates that it lacks the technical capability to report electronically.

14 (b) Public water systems subject to drinking water sampling requirements pursuant to the
15 Unregulated Contaminant Monitoring Rule, as adopted under section 1445 of the federal Safe
16 Drinking Water Act, as amended, 42 U.S.C. § 300j-4, shall provide public notice of the drinking
17 water sampling results within 30 days of receiving the sampling results. Public notice must
18 include providing written notice to each customer and posting sampling results on a publicly
19 accessible website."

20 **SECTION 3.(b)** No later than June 30, 2023, public water systems that have received
21 prior sampling results demonstrating the presence of PFAS in finished drinking water shall
22 provide public notice of the sampling results. Public notice must include providing written notice
23 to each customer and posting sampling results on a publicly accessible website. For purposes of
24 this subsection, "PFAS" means any fluorinated substances that contain at least one fully
25 fluorinated methyl or methylene carbon atom, including any precursors of such substances.
26

27 **PART IV. DEPARTMENT OF ENVIRONMENTAL QUALITY AND** 28 **ENVIRONMENTAL MANAGEMENT COMMISSION ACTION TO ADDRESS PFAS**

29 **SECTION 4.** No later than June 1, 2024, the Department of Environmental Quality
30 shall begin identifying technology-based limits for detectable PFAS in new and renewed
31 National Pollutant Discharge Elimination System (NPDES) permits. Such technology-based
32 limits shall consist of treatments sufficient to reduce detectable PFAS in effluent to non-detect
33 levels. For purposes of this section, the following definitions apply:

- 34 (1) "Detectable PFAS" means PFAS in an amount such that the presence,
35 individual concentrations, and total concentrations can be assessed by a
36 laboratory method certified by the United States Environmental Protection
37 Agency or approved by the Department.
38 (2) "Non-detect levels" means concentrations of PFAS below 10 ppt as measured
39 by a laboratory method certified by the United States Environmental
40 Protection Agency or approved by the Department.

41 **SECTION 5.(a)** The Department of Environmental Quality shall study the presence
42 of PFAS in land-applied biosolids, including identifying the most common PFAS that may be
43 present in biosolids, likely categories of sources for any PFAS detected, the propensity of PFAS
44 to migrate off-site from land application sites, and accumulation and persistence of PFAS in soil
45 and water that are downgradient from land application sites. The Department shall report the
46 findings of its study, including recommendations for legislative and Commission action, to the
47 Environmental Management Commission and the Environmental Review Commission no later
48 than September 1, 2024.

49 **SECTION 5.(b)** If, as a result of the study performed pursuant to subsection (a) of
50 this section, the Department of Environmental Quality finds that PFAS are likely to migrate from
51 land application sites and accumulate at detectable levels in soil and water that are downgradient

1 from such sites, the Environmental Management Commission shall adopt rules to prevent such
2 migration or accumulation of the pollutant off-site.

3 **SECTION 6.(a)** The Department of Environmental Quality shall study the presence
4 of PFAS in leachate collected and disposed of from municipal solid waste landfills and
5 construction and demolition debris landfills, including identifying the most common PFAS that
6 may be present in leachate, as well as the effectiveness of treatment technologies in wastewater
7 treatment plants at removing PFAS prior to discharge. The Department shall report the findings
8 of its study, including recommendations for legislative and Commission action, to the
9 Environmental Management Commission and the Environmental Review Commission no later
10 than September 1, 2024.

11 **SECTION 6.(b)** If, as a result of the study performed pursuant to subsection (a) of
12 this section, the Department of Environmental Quality finds that PFAS in landfill leachate cannot
13 be practicably removed from wastewater prior to discharge, the Environmental Management
14 Commission shall adopt rules to prohibit the disposal of leachate containing detectable PFAS at
15 wastewater treatment plants.

16 **SECTION 6.(c)** For purposes of this section, "detectable PFAS" means PFAS in an
17 amount such that the presence, individual concentrations, and total concentrations can be
18 assessed by a laboratory method certified by the United States Environmental Protection Agency
19 or approved by the Department.

20 **SECTION 7.** If, by January 1, 2024, the United States Environmental Protection
21 Agency (USEPA) has not certified a lab method for the identification and measurement of PFAS
22 in wastewater, the Department of Environmental Quality shall approve an USEPA-validated lab
23 method for this purpose.

24 **SECTION 8.** The Department of Environmental Quality shall create an inventory of
25 all ongoing direct and indirect discharges of PFAS to the air and surface waters, as well as known
26 and likely instances of PFAS contamination in soil and groundwater. This inventory shall
27 include, at minimum, the location of the discharge, the amount of the ongoing discharge, and the
28 duration of the discharge, to the extent that the Department can determine those parameters. The
29 Department may coordinate with the North Carolina Per- and Poly-fluoroalkyl Substances
30 Testing (PFAST) Network, organized by the North Carolina Policy Collaboratory, or any other
31 entity the Department deems necessary to assemble the inventory of PFAS discharges and
32 contamination. The Department shall report its initial findings to the Environmental Review
33 Commission no later than September 1, 2024, and shall provide quarterly updates on new
34 discharges or contamination to the Environmental Review Commission thereafter.

35 **SECTION 9.** The Secretaries' Science Advisory Board of the Department of
36 Environmental Quality and the Department of Health and Human Services shall conduct a risk
37 assessment, based on the best available scientific information, of the risks to human health
38 presented by exposures to PFAS present in North Carolina in various media, including air, water,
39 and soil, both as individual toxic substances and as a class of toxic substances. The Secretaries'
40 Science Advisory Board shall report the findings of its risk assessment to the Joint Legislative
41 Oversight Committee on Health and Human Services and the Environmental Review
42 Commission no later than September 1, 2024.

43 44 **PART V. DIRECTIVES TO VARIOUS AGENCIES TO STUDY MATTERS** 45 **ASSOCIATED WITH PFAS CONTAMINATION**

46 **SECTION 10.** The Department of Health and Human Services shall develop and
47 implement a program, in consultation with the Department of Environmental Quality, to (i) study
48 the estimated human exposure to per- and poly-fluoroalkyl substances (PFAS) in the Cape Fear
49 River Basin and (ii) conduct an epidemiological study of populations in the Cape Fear River
50 Basin to identify disparities in disease prevalence that are consistent with long-term exposures to
51 PFAS. No later than December 31, 2024, the Department shall issue a final report on its findings

1 under these studies, including any recommendations for legislative action, to the Environmental
2 Review Commission. Until such time as the final report is issued, the Department shall submit
3 quarterly reports to the Environmental Review Commission, beginning no later than January 1,
4 2024, on activities conducted pursuant to this section.

5 **SECTION 11.** The Wildlife Resources Commission shall study the estimated
6 ecological exposures and impacts from PFAS contamination in the Cape Fear River Basin. No
7 later than December 31, 2024, the Commission shall issue a final report on its findings under the
8 study, including any recommendations for legislative action, to the Environmental Review
9 Commission. Until such time as the final report is issued, the Commission shall submit quarterly
10 reports to the Environmental Review Commission, beginning no later than January 1, 2024, on
11 activities conducted pursuant to this section.

12 **SECTION 12.** The Office of State Budget and Management (OSBM) shall study
13 estimated costs incurred by the State, local governments, businesses, and individuals in response
14 to human and ecological exposure to PFAS. OSBM shall, in consultation with the Department of
15 Environmental Quality and the Attorney General, establish an estimate of costs attributable to
16 each source of PFAS identified in the State. No later than December 31, 2024, OSBM shall issue
17 a final report on its findings under the study, including any recommendations for legislative
18 action, to the Environmental Review Commission. Until such time as the final report is issued,
19 OSBM shall submit quarterly reports to the Environmental Review Commission, beginning no
20 later than January 1, 2024, on activities conducted pursuant to this section.

21 **SECTION 13.** The North Carolina Policy Collaboratory shall study the ongoing and
22 anticipated future costs of the aggregate impact of the discharge, emission, and contamination of
23 PFAS in North Carolina, including the costs of sampling, testing, cleanup, and decontamination;
24 health care related to PFAS exposure; infrastructure improvements; and any other associated
25 costs. The Collaboratory shall determine anticipated future costs of PFAS discharge, emission,
26 and contamination by extrapolating from the best available scientific information about PFAS
27 risks and impacts. The Collaboratory shall report its findings to the Joint Legislative Oversight
28 Committee on Government Operations, the Joint Legislative Oversight Committee on Health and
29 Human Services, and the Joint Legislative Oversight Committee on Agriculture and Natural and
30 Economic Resources no later than September 1, 2024.

31 **SECTION 14.** The Environmental Review Commission shall study all statutory and
32 regulatory requirements for disclosing the discharge or release of PFAS or other emerging
33 contaminants to the Department of Environmental Quality and the public, including downstream
34 water users. The Environmental Review Commission shall report its findings and
35 recommendations, including any legislative proposals, to the 2024 Regular Session of the 2023
36 General Assembly upon its convening.

37 **SECTION 15.** The Environmental Review Commission shall study actions taken by
38 other states to promote and expand the practice of green chemistry to reduce the generation and
39 use of hazardous chemicals and to drive sustainable alternatives to the manufacture and use of
40 PFAS and other emerging contaminants. In conducting its study, the Environmental Review
41 Commission shall examine tax incentives, reporting requirements, regulatory changes, and any
42 other relevant approaches that other states have adopted to promote and expand the practice of
43 green chemistry. The Environmental Review Commission shall report its findings and
44 recommendations, including any legislative proposals, to the 2024 Regular Session of the
45 General Assembly upon its convening.

46 **PART VI. FUNDING FOR STUDIES CONDUCTED BY STATE AGENCIES**

47 **SECTION 16.(a)** The sum of two hundred thousand dollars (\$200,000) in
48 nonrecurring funds for the 2023-2024 fiscal year is appropriated from the General Fund to the
49 Department of Environmental Quality to carry out the studies required by Sections 8 and 9 of
50 this act.
51

1 **SECTION 16.(b)** The sum of one hundred thousand dollars (\$100,000) in
2 nonrecurring funds for the 2023-2024 fiscal year is appropriated from the General Fund to the
3 Department of Health and Human Services to carry out the studies required by Section 10 of this
4 act.

5 **SECTION 16.(c)** The sum of one hundred thousand dollars (\$100,000) in
6 nonrecurring funds for the 2023-2024 fiscal year is appropriated from the General Fund to the
7 Wildlife Resources Commission to carry out the study required by Section 11 of this act.

8 **SECTION 16.(d)** The sum of one hundred thousand dollars (\$100,000) in
9 nonrecurring funds for the 2023-2024 fiscal year is appropriated from the General Fund to the
10 Office of State Budget and Management to carry out the study required by Section 12 of this act.

11 **SECTION 16.(e)** The sum of one hundred thousand dollars (\$100,000) in
12 nonrecurring funds for the 2023-2024 fiscal year is appropriated from the General Fund to the
13 North Carolina Policy Collaboratory to carry out the study required by Section 13 of this act.

14 **SECTION 16.(f)** This section becomes effective July 1, 2023.

15 16 **PART VII. ADDITIONAL FUNDING FOR PFAS MATTERS**

17 **SECTION 17.(a)** There is appropriated from the General Fund to the Department of
18 Environmental Quality the sum of five million dollars (\$5,000,000) in nonrecurring funds for the
19 2023-2024 fiscal year for the Bernard Allen Drinking Water Fund to fund drinking water
20 treatment systems for individuals, businesses, and community water systems with covered wells.
21 For purposes of this section, a "covered well" is a drinking water well contaminated with PFOA
22 above 12 ppt, PFOS above 13 ppt, PFNA above 11 ppt, PFHxS above 18 ppt, or above 20 ppt
23 for the sum of all detectable PFAS.

24 **SECTION 17.(b)** There is appropriated from the General Fund to the Department of
25 Environmental Quality the sum of five million dollars (\$5,000,000) in recurring funds to expand
26 the Department's ambient water quality monitoring activities to identify emerging and other
27 pollutants in waters of the State at locations upstream from surface drinking water intakes.

28 **SECTION 17.(c)** There is appropriated from the General Fund to the Department of
29 Environmental Quality the sum of one million dollars (\$1,000,000) in nonrecurring funds for the
30 2023-2024 fiscal year to develop a strategy to address persistent toxic chemicals in the State's
31 environment. In developing a persistent toxics strategy, the Department shall first develop a
32 planned strategy for the reduction of PFAS in the environment to be known as the "PFAS
33 Chemical Action Plan," which shall serve as a model for development of future chemical action
34 plans for other pollutants. The PFAS Chemical Action Plan shall include, at a minimum, (i)
35 identification of all currently detectable PFAS uses within the State and (ii) identification of
36 options and actions to reduce or eliminate detectable PFAS within the State, including analysis
37 of State and federal laws and policies for that purpose. The Department shall consult with
38 stakeholders in the development of the Plan and shall provide opportunities for public comment.
39 The final PFAS Chemical Action Plan, developed after considering public comments received
40 and the input of stakeholders, shall identify recommendations for legislative action and for
41 Department action, including the adoption of rules. The Department shall finalize the PFAS
42 Chemical Action Plan no later than January 1, 2025, and shall initiate implementation of the Plan
43 no later than April 1, 2025.

44 **SECTION 17.(d)** There is appropriated from the General Fund to the Department of
45 Environmental Quality the sum of one million dollars (\$1,000,000) in nonrecurring funds for the
46 2023-2024 fiscal year to study PFAS destruction and disposal techniques to identify a safe,
47 effective, and scalable technology. For purposes of this section, a "safe technology" means one
48 that does not result in further contamination via air deposition or soil or water contamination.
49 The study shall include an analysis of the effectiveness and safety of current technologies,
50 including those presently at bench and pilot scales. In the conduct of this study, the Department
51 may coordinate with, and review research conducted by, other entities such as the Strategic

1 Environmental Research and Development Program. The Department shall report its findings,
2 including any recommendations for legislative action necessary to protect public health and the
3 environment, to the Environmental Management Commission and the Environmental Review
4 Commission no later than September 1, 2024.

5 **SECTION 17.(e)** There is appropriated from the General Fund to the State Water
6 Infrastructure Authority the sum of eighty million dollars (\$80,000,000) in nonrecurring funds
7 for the 2023-2024 fiscal year to issue matching grants to water systems to build or improve
8 drinking water treatment systems to substantially reduce public exposure to detectable PFAS.

9 **SECTION 17.(f)** The Attorney General shall develop and maintain a record of
10 cumulative expenses borne by State agencies and local governments under subsections (a), (d),
11 and (e) of this section. The Attorney General shall report to the General Assembly no later than
12 March 1, 2024, on the cumulative expenses recorded and the State's options to recover damages
13 and costs incurred to protect North Carolinians from PFAS contamination from entities
14 responsible for the introduction of PFAS into the air, water, groundwater, and soil of the State.

15 **SECTION 17.(g)** For purposes of this section, "detectable PFAS" means PFAS in
16 an amount such that the presence, individual concentrations, and total concentrations can be
17 assessed by a laboratory method certified by the United States Environmental Protection Agency
18 or approved by the Department.

19 **SECTION 17.(h)** This section becomes effective July 1, 2023.

20 **PART VIII. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

21 **SECTION 18.** If any section or provision of this act is declared unconstitutional or
22 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
23 the part so declared to be unconstitutional or invalid.

24 **SECTION 19.** Except as otherwise provided, this act is effective when it becomes
25 law.
26