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DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 63

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO FIREFIGHTING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Part VI, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Part VI. Safety.

Chapter 66. Fire Prevention and Firefighters.

~~Chapter 66A.~~ Subchapter VIII. Delaware Firemen's Pension Plan.

Section 2. Amend Part VI, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter IX. Firefighting Foam.

§ 6666. Definitions.

As used in this subchapter:

(1) "Class B firefighting foam" means a foam designed to extinguish flammable liquid fires.

(2) "PFAS chemicals" means a class of fluorinated organic chemicals containing at least 1 fully-fluorinated carbon atom, including perfluoroalkyl and polyfluoroalkyl substances, and designed to be fully functional in class B firefighting foam formulations.

(3) "Testing" means calibration testing, conformance testing, or fixed system testing.

§ 6667. Use of firefighting foam with PFAS chemicals.

It is unlawful to discharge a class B firefighting foam containing intentionally-added PFAS chemicals, unless the discharge is for 1 of the following purposes:

(1) Fire prevention or in response to an emergency firefighting operation.

(2) Training or testing purposes that occur at a facility that has implemented containment, treatment, and disposal measures to prevent releases of class B firefighting foam containing intentionally-added PFAS chemicals.

§ 6668. Limitations.

This subchapter may not be construed to do either of the following:

(1) Restrict either of the following:

a. The manufacture, sale, or distribution of class B firefighting foam containing intentionally-added PFAS chemicals.

b. The discharge or use of class B firefighting foam in response to emergency fire-fighting operation.

(2) Prevent the use of a nonfluorinated foams, including other class B firefighting foams, for training for firefighting operations.

Section 3. This Act takes effect the first January 1 occurring after enactment.

SYNOPSIS

This Act limits the use of certain Class B firefighting foams (“Class B foams”) in Delaware. Class B foams are used to put out fires caused by flammable liquids like gasoline, oil, and jet fuel, and can be divided into 2 categories: those with PFAS chemicals and those without.

PFAS chemicals include a range of chemistries with differing properties, which have been widely-used for decades in products other than Class B foams, like food packaging, carpets, and other household items, and in firefighting foam. The use of firefighting foams containing PFAS chemicals, however, is an emerging public health challenge to avoid future contamination and reduce exposure to firefighters and Delawareans.

Firefighting foam containing PFAS chemicals can get into water wells and drinking water supplies and expose firefighters and others to the chemicals. More studies into the effects of PFAS chemicals are emerging; some of the health effects of exposure to certain PFAS chemicals include pregnancy complications, liver damage, and high cholesterol.

The PFAS chemicals in firefighting foams must be weighed against their particularly-effective nature in fighting liquid fires when mixed with water. To that end, this Act prohibits the use of Class B foams containing intentionally-added PFAS chemicals unless the use is for fire prevention or emergency firefighting. Further, this Act permits the use of such foam for training and testing only if the facility in which the training or testing occurs has implemented containment, treatment, and disposal measures to prevent releases of Class B foams containing PFAS chemicals.

This Act also makes technical changes to Part IV of Title 16, to reflect its current structure more accurately.

Author: Senator Ennis