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Drafter: DCT  
File name:  
LR (item)#: 0302(02)  
New Title?: NO  
Add Emergency?: NO  
Date: 5/19/21

**LD 1505**  
**Proposed amendment, Representative Gramlich**

*Amend the bill by striking everything after the enacting clause and before the summary and inserting the following:*

**Sec. 1. 38 MRSA §424-C** is enacted to read:

**§424-C. Perfluoroalkyl and polyfluoroalkyl substances in firefighting or fire-suppressing foam**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Discharge" means a release by any means, including, but not limited to, spilling, leaking, pumping, pouring, spraying, emitting, disposing, escaping, emptying or dumping, whether intentional or unintentional.

B. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in Title 32, section 1732, subsection 5-A.

C. "Person" means a natural person, firm, association, partnership, corporation or trust; the State or any agency of the State; a governmental entity or quasi-governmental entity; the United States or any agency of the United States; or any other legal entity.

**2. Discharge prohibited.** Beginning January 1, 2022, a person may not discharge or cause to be discharged for testing or training purposes a firefighting or fire-suppressing foam to which PFAS have been intentionally added unless the foam is entirely collected by the person for proper disposal.

Nothing in this subsection prohibits a person from discharging or causing to be discharged in an emergency situation to protect life or property a firefighting or fire-suppressing foam to which PFAS have been intentionally added.

**3. Discharge reporting.** A person that discharges or causes to be discharged firefighting or fire-suppressing foam to which PFAS have been intentionally added into or upon any coastal waters, estuary, tidal flat, beach or land adjoining the seacoast of the State or into or upon any lake, pond, river, stream, sewer, surface water drainage, groundwater or other waters of the State or any public or private water supply or onto land adjacent to, on or over such waters of the State

shall report the discharge to the department as soon as practicable, but no later than 24 hours after the discharge occurs.

**4. Manufacture, sale and distribution prohibited.** Beginning January 1, 2022, a person may not manufacture, sell, offer for sale, distribute for sale or distribute for use in the State a firefighting or fire-suppressing foam to which PFAS have been intentionally added, except where:

A. Such foam is manufactured, sold or distributed for use an at an oil terminal facility in the State. As used in this paragraph, “oil terminal facility” has the same meaning as in section 542, subsection 7. This paragraph is repealed January 1, 2025; or

B. Such foam is manufactured, sold or distributed for use at an airport in the State, as long as the foam is required by federal law or regulation to be used at airports for firefighting or fire-suppressing purposes, including, but not limited to, as required by 14 Code of Federal Regulations, Section 139.317 as that section existed on January 1, 2021. If on or after January 1, 2022, no federal law or regulation requires the use of such foam at airports for firefighting or fire-suppressing purposes, then the exception in this paragraph to the prohibition in this subsection does not apply.

**5. Notice and recall.** Except as provided in subsection 4, paragraphs A or B, on or before January 1, 2022, a person that manufactures firefighting or fire-suppressing foam to which PFAS have been intentionally added and, prior to January 1, 2022, sold, offered for sale or distributed for sale or use in the State such foam shall:

A. Provide written notification regarding the prohibition in subsection 4 to any person in the State that, prior to January 1, 2022, sold, offered for sale or distributed for sale or use in the State a firefighting or fire-suppressing foam to which PFAS have been intentionally added that was produced by that manufacturer; and

B. Issue a recall of any such foam the person manufactured that was sold, offered for sale or distributed for sale or use in the State prior to January 1, 2022. The recall must include a process by which a person in the State that purchased the foam subject to the recall in the State prior to January 1, 2022, including, but not limited to, a person that sold the foam at retail in the State, will be reimbursed by the manufacturer for the recalled foam.

**6. Administration and enforcement; rules.** The department shall administer and enforce this section and may adopt rules as necessary to implement and administer this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. Framework; report.** In collaboration with the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency and interested parties, the Department of Environmental Protection shall develop a framework for the collection and safe storage of firefighting and fire-suppressing foam to which perfluoroalkyl and polyfluoroalkyl substances have been intentionally added that are subject to the manufacturing, sale and

distribution prohibition under the Maine Revised Statutes, Title 38, section 424-C, subsection 4 and not returned to the manufacturer of the foam pursuant to a recall issued in accordance with Title 38, section 424-C, subsection 5, paragraph B until the foam can be safely disposed of. On or before March 1, 2022, the department shall submit a report to the Joint Standing Committee on Environment and Natural Resources that includes the proposed framework and any recommended legislation. The joint standing committee may report out a bill based upon the report to the 130th Legislature.

## **SUMMARY**

This amendment replaces the bill and makes the following changes.

1. It adds definitions for the terms “discharge” and “person”.
2. It allocates to the Maine Revised Statutes the unallocated provisions in the bill regarding manufacturer notice and recall of firefighting or fire-suppressing foam to which perfluoroalkyl and polyfluoroalkyl substances, or PFAS, have been intentionally added.
3. It clarifies that the prohibition in the bill on the discharge for testing or training purposes of a firefighting or fire-suppressing foam to which PFAS have been intentionally added does not prohibit the discharge of such foam in an emergency situation to protect life or property.
4. It adds an exemption to the prohibition in the bill on the manufacture, sale or distribution of firefighting or fire-suppressing foam to which PFAS have been intentionally added for such foam that is manufactured, sold or distributed for use an at an oil terminal facility in the State. That exemption is repealed January 1, 2025.
5. It authorizes the Department of Environmental Protection to administer and enforce the provisions of the bill, as amended, and to adopt any rules as necessary.
6. It changes to date the report from the Department of Environmental Protection to the Joint Standing Committee on Environment and Natural Resources is due from March 31, 2022 to March 1, 2022.
7. It incorporates a number of technical edits and clarifications to the bill.