

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2722**

BY DELEGATES ESPINOSA, SUMMERS, J. KELLY, STATLER

AND HANSEN

[Introduced February 24, 2021; referred to the  
Committee on Fire Departments and Emergency  
Medical Services then the Judiciary]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §29-3-5g, relating to prohibiting the use of class B fire-fighting foam for testing  
3 purposes if the foam contains a certain class of fluorinated organic chemicals; providing  
4 definitions; and providing exceptions.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.**

**§29-3-5g. Class B fire-fighting foam.**

1 (a) The State Fire Commission shall, on or before July 1, 2021, propose rules for legislative  
2 approval in accordance with §29A-3-1 et seq. of this code to provide:

3 (1) Standard safe practices for the discharge or otherwise use class B fire-fighting foam  
4 that contains intentionally added polyfluoroalkyl substances (PFAS).

5 (2) For purposes of this section:

6 “Class B fire-fighting foam” means any foam designed to extinguish flammable liquid fires.

7 “PFAS chemicals” means nonpolymeric perfluoroalkyl and polyfluoroalkyl substances that  
8 are a group of man-made chemicals that contain at least two (2) fully fluorinated carbon atoms,  
9 excluding gases, and volatile liquids.

10 “Testing” means calibration testing, conformance testing, or fixed system testing.

11 “Testing Facility” allows the discharge of foam in a non-emergency situation for the  
12 evaluation and calibration of firefighting equipment and foam. This facility may also have the  
13 capability to provide some level of needed training for firefighters.

14 “Fixed Foam System” means a complete installation piped from a central foam station,  
15 discharging through fixed discharge devices on the flammable liquid hazard being protected.  
16 Foam proportioning components are permanently installed. The system has been engineered for  
17 the hazard and often contains multiple (UL or FM) listed components and foam.

18 “Foam Training Facility” shall mean to allow the discharge of foam in a non-emergency  
19 situation for the training of firefighters and readiness of equipment. This facility may also have  
20 the capability to provide some level of needed evaluation and calibration of equipment and foam.

21 (b) On or after July 1, 2021, no person, fire department, state department, agency, board,  
22 bureau, office, commission, public corporation, or authority; county, municipal corporation, school  
23 district, or other political subdivision of this state may discharge or otherwise use class B fire-  
24 fighting foam that contains intentionally added PFAS chemicals unless:

25 (1) The discharge or other use occurs in fire prevention or in response to an emergency  
26 fire-fighting operation; or

27 (2) The discharge or other use is for training or testing purposes which occurs at a facility  
28 that has implemented containment, storage, treatment, and disposal measures to prevent  
29 uncontrolled releases of such class B fire-fighting foam into the environment.

30 (c) Nothing in this code section may be construed to:

31 (1) Restrict the manufacture, sale, or distribution of class B fire-fighting foam that contains  
32 intentionally added PFAS chemicals or restrict the discharge or other use of class B fire-fighting  
33 foam in response to an emergency fire-fighting operation; or

34 (2) Prevent the use of nonfluorinated foams, including other class B fire-fighting foams, for  
35 purposes of training for fire-fighting operations.

36 (d) The State Fire Commission may establish work groups and seek input in the  
37 rulemaking process from groups or individuals with an interest in any aspect of the use of class B  
38 fire-fighting foams.

NOTE: The purpose of this bill is to prohibit the use of class B fire-fighting foam for testing purposes if the foam contains a certain class of fluorinated organic chemicals; and providing exceptions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.