

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE PRINCIPAL CLERK

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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