

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
BILL NO. 2305

By: Pfeiffer of the House

3
4 and

Rader of the Senate

5
6
7 [environment and natural resources - Oklahoma PFAS
8 Act - terms - promulgation of rules and regulations
9 - Oklahoma Department of Environmental Quality -
10 fee schedule for the disposal of PFAS substances -
11 liability for PFAS waste generators - liability
12 exceptions for passive receivers of PFAS substances
13 - application and authorization for activities -
14 classification of PFAS waste - codification -
15 effective date]

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18 AUTHOR: Add the following House Coauthor: Alonso-Sandoval

19 AMENDMENT NO. 1. Page 1, strike the stricken title, enacting clause
and entire bill and insert

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21 "[environment and natural resources - Oklahoma PFAS
22 Act - terms - rule promulgation - Department of
23 Environmental Quality - fee schedule - liability -
24 codification -
emergency]

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~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-7-501 of Title 27A, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma PFAS Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-7-502 of Title 27A, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma PFAS Act:

1. "PFAS" means perfluoroalkyl and polyfluoroalkyl substances;
2. "AFFF" means aqueous film-forming foam containing intentionally added PFAS; and
3. "AFFF waste" means AFFF, diluted AFFF, and water or soil contaminated with AFFF, containing intentionally added PFAS with a concentration greater than one part per billion, which is abandoned, discarded, disposed, destroyed, or stored pending disposal or destruction.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-7-503 of Title 27A, unless there is created a duplication in numbering, reads as follows:

1 A. Subject to subsection B of this section, the following
2 protected passive receivers of PFAS that provide essential services
3 shall not be liable to this state for costs arising from a release
4 of PFAS to the environment:

5 1. A public water system, as defined in Section 1401 of the
6 federal Safe Drinking Water Act, 42 U.S.C., Section 300f;

7 2. A publicly or privately owned or operated treatment works,
8 as defined in Section 212 of the Federal Water Pollution Control
9 Act, 33 U.S.C., Section 1292, or the owner of a site where biosolids
10 generated from a treatment works or a permitted municipal wastewater
11 lagoon, as defined by the administrative rules of the Department of
12 Environmental Quality, are applied;

13 3. A municipality to which a permit under Section 402 of the
14 Federal Water Pollution Control Act, 33 U.S.C., Section 1342, is
15 issued for stormwater discharges;

16 4. A political subdivision of this state acting as a wholesale
17 water agency;

18 5. A contractor performing the management or disposal
19 activities described in subsection B of this section for an entity
20 described in paragraphs 1 through 4 of this subsection;

21 6. An entity with a fire suppression system installed or
22 otherwise in use, in accordance with applicable federal, state, and
23 local fire codes, that uses AFFF containing PFAS;

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1 7. A sponsor of the civilian portion of a joint-use airport or
2 a shared-use airport with the release of PFAS resulting from the use
3 of AFFF pursuant to, and carried out in accordance with, Federal
4 Aviation Administration standards and guidance on the use of the
5 substances; and

6 8. An owner or operator of a solid waste management facility,
7 as defined in Section 1004 of the Solid Waste Disposal Act, 42
8 U.S.C., Section 6903, to the extent that the facility received
9 routine municipal solid waste.

10 B. The exemption from liability contained in subsection A of
11 this section shall only apply if the protected passive receiver of
12 PFAS manages, transports, conveys, treats, disposes of, or arranges
13 for the transport, treatment, or disposal of PFAS, in accordance
14 with all relevant and applicable federal, state, or other legal
15 requirements and the most recently approved engineering standards,
16 at the time that the activity is carried out.

17 C. Nothing in this section precludes liability for damages or
18 costs associated with the release of PFAS by a protected passive
19 receiver of PFAS if the protected passive receiver acted with gross
20 negligence or willful misconduct in the discharge, disposal,
21 management, conveyance, or storage of PFAS.

22 SECTION 4. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 2-7-504 of Title 27A, unless
24 there is created a duplication in numbering, reads as follows:

1 A. The Environmental Quality Board shall promulgate rules
2 related to the receipt, storage, treatment, and disposal of PFAS in
3 this state, including rules related to a waste exclusion plan.

4 B. Rules promulgated under subsection A of this section shall
5 include provisions requiring that any person accepting AFFF waste
6 for storage, treatment, or disposal shall prove to the Department of
7 Environmental Quality that the manner in which the AFFF waste is to
8 be stored, treated, or disposed of is protective of human health and
9 the environment. The Department shall establish criteria and
10 guidelines to assist in making a determination regarding this
11 protection.

12 C. The Environmental Quality Board shall establish a schedule
13 of fees, pursuant to Section 2-3-402 of Title 27A of the Oklahoma
14 Statutes and the Administrative Procedures Act, for the application
15 to dispose, and for disposal of, AFFF waste at a facility in
16 Oklahoma. Provided, any fees established pursuant to this
17 subsection shall be in lieu of any tonnage fees assessed to the
18 holder of a permit by the Department for solid or hazardous waste
19 disposal. The fees shall be deposited into the Department of
20 Environmental Quality Revolving Fund.

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2-7-505 of Title 27A, unless
23 there is created a duplication in numbering, reads as follows:

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1 A. A person shall submit an application to the Department of
2 Environmental Quality and shall receive authorization from the
3 Department prior to receiving, storing, treating, or disposing of
4 more than two hundred (200) pounds of AFFF waste per day. The
5 process and requirements necessary for the authorization shall be
6 governed by the rules promulgated pursuant to Section 4 of this act.
7 The Department, in the exercise of its reasonable discretion, may
8 waive specific requirements of this act or rules where there is no
9 feasible alternative to the storage, treatment, or disposal at issue
10 and the action does not result in a greater risk to human health and
11 the environment. Prior to the promulgation of rules in Section 4 of
12 this act, the Department may authorize the continuation of
13 activities covered under this subsection if it determines that the
14 activities will be conducted in a manner that is sufficiently
15 protective of human health and the environment as determined by the
16 Department.

17 B. Nothing in this section shall relieve the manufacturer of
18 PFAS-containing material from liability related to the storage,
19 treatment, or disposal of PFAS waste.

20 C. AFFF waste generated in or transported from another state
21 shall maintain the same classification or characterization it would
22 receive in the state of origin, unless such classification or
23 characterization is less protective of human health and the
24 environment than the classification or characterization it would

1 have received if generated in this state. If the AFFF waste
2 generated in or transported from another state is banned from
3 disposal in the state of origin, then the waste is similarly banned
4 from disposal in Oklahoma.

5 SECTION 6. It being immediately necessary for the preservation
6 of the public peace, health or safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval."

9 Passed the Senate the 24th day of April, 2024.

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11 _____
12 Presiding Officer of the Senate

13 Passed the House of Representatives the ____ day of _____,
14 2024.

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16 _____
17 Presiding Officer of the House
18 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 2305

By: Pfeiffer of the House

and

Rader of the Senate

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6 [environment and natural resources - Oklahoma PFAS
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13 classification of PFAS waste - codification -
14 effective date]
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17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 7. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2-7-501 of Title 27A, unless
20 there is created a duplication in numbering, reads as follows:

21 This act shall be known and may be cited as the "Oklahoma PFAS
22 Act".
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1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-7-502 of Title 27A, unless
3 there is created a duplication in numbering, reads as follows:

4 As used in the Oklahoma PFAS Act:

5 1. "PFAS" means perfluoroalkyl and polyfluoroalkyl substances;

6 2. "PFAS waste" means the following materials containing high
7 concentrations of PFAS that are being abandoned, discarded, disposed
8 of, destroyed, or stored pending such disposal or destruction:

9 a. waste aqueous film-forming foam (AFFF) containing
10 PFAS,

11 b. waste containing high concentrations of PFAS that is
12 generated at PFAS manufacturing and processing
13 facilities,

14 c. waste containing high concentrations of PFAS that is
15 generated at facilities using PFAS in the production
16 of products other than PFAS,

17 d. waste containing high concentrations of PFAS from
18 remediation projects,

19 e. any treatment waste containing high concentrations of
20 PFAS associated with the removal of PFAS including,
21 but not limited to, waste or waste streams from spent
22 water treatment materials used for the removal of PFAS
23 in drinking water or groundwater, and
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1 f. any other waste that typically contains or is expected
2 to contain high concentrations of PFAS; and

3 3. "High concentrations of PFAS" means a PFAS concentration
4 that poses an unacceptable risk to human health or the environment
5 as determined through criteria established by rules promulgated
6 pursuant to Section 2-3-402 of Title 27 of the Oklahoma Statutes and
7 the Administrative Procedures Act.

8 SECTION 9. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2-7-503 of Title 27A, unless
10 there is created a duplication in numbering, reads as follows:

11 A. Subject to subsection B of this section, the following
12 protected passive receivers of PFAS waste that provide essential
13 services shall not be liable to the State of Oklahoma, or any
14 political subdivision of the state, for costs arising from a release
15 to the environment of a PFAS substance:

16 1. A public water system, as defined in Section 1401 of the
17 federal Safe Drinking Water Act, 42 U.S.C., Section 300f;

18 2. A publicly or privately owned or operated treatment works,
19 as defined in Section 212 of the Federal Water Pollution Control
20 Act, 33 U.S.C., Section 1292, or the owner of a site where biosolids
21 generated from a treatment works or a permitted municipal wastewater
22 lagoon, as defined by the administrative rules of the Department,
23 are applied;

1 3. A municipality to which a permit under Section 402 of the
2 Federal Water Pollution Control Act, 33 U.S.C., Section 1342, is
3 issued for stormwater discharges;

4 4. A political subdivision of the State of Oklahoma acting as a
5 wholesale water agency;

6 5. A contractor performing the management or disposal
7 activities described in subsection B of this section for an entity
8 described in paragraphs 1 through 4 of this subsection;

9 6. An entity with a fire suppression system installed, or
10 otherwise in use, in accordance with applicable federal, state, and
11 local fire codes that uses AFFF containing PFAS;

12 7. A sponsor of the civilian portion of a joint-use airport or
13 a shared-use airport with the release of PFAS substances resulting
14 from the use of AFFF pursuant to, and carried out in accordance
15 with, Federal Aviation Administration standards and guidance on the
16 use of the substances; and

17 8. An owner or operator of a solid waste management facility,
18 as defined in Section 1004 of the Solid Waste Disposal Act, 42
19 U.S.C., Section 6903.

20 B. The exemption from liability contained in subsection A of
21 this section shall only apply if the protected passive receiver of a
22 PFAS substance manages, transports, conveys, treats, disposes of, or
23 arranges for the transport, treatment, or disposal of the PFAS
24 substance, in accordance with all relevant and applicable federal,

1 state, or local permits or other legal requirements, and the most
2 recently approved engineering standards, at the time that the
3 activity is carried out.

4 C. Nothing in this section precludes liability for damages or
5 costs associated with the release of a PFAS substance by a protected
6 passive receiver of a PFAS substance if the protected passive
7 receiver acted with gross negligence or willful misconduct in the
8 discharge, disposal, management, conveyance, or storage of the PFAS
9 substance.

10 SECTION 10. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2-7-504 of Title 27A, unless
12 there is created a duplication in numbering, reads as follows:

13 A. The Environmental Quality Board shall adopt and promulgate
14 rules and regulations related to the receipt, storage, treatment,
15 and disposal of PFAS waste in this state.

16 B. Rules and regulations adopted under subsection A of this
17 section shall include provisions requiring that any person accepting
18 PFAS waste for storage, treatment, and/or disposal shall demonstrate
19 to the Department that the manner in which the PFAS waste is to be
20 stored, treated, and/or disposed of is protective of human health
21 and the environment. The rules and regulations shall establish
22 criteria or guidelines to assist the Department in making a
23 determination regarding this protection.

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1 C. The Environmental Quality Board shall establish a schedule
2 of fees, pursuant to Section 2-3-402 of Title 27 of the Oklahoma
3 Statutes and the Administrative Procedures Act, for the application
4 to dispose, and for disposal of, PFAS waste based on the type and
5 amount of PFAS waste disposed of at a facility in Oklahoma. The
6 fees shall be deposited into the Oklahoma Department of
7 Environmental Quality Revolving Fund.

8 SECTION 11. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2-7-505 of Title 27A, unless
10 there is created a duplication in numbering, reads as follows:

11 A. A person shall submit an application for the activity to the
12 Department of Environmental Quality and shall receive authorization
13 from the Department prior to receiving, storing, treating, or
14 disposing of PFAS waste. The process and requirements necessary for
15 the authorization shall be governed by rules and regulations adopted
16 pursuant to Section 4 of this act. The Department, in the exercise
17 of its reasonable discretion, may waive specific requirements of
18 this act or the adopted rules where there is no feasible alternative
19 to the storage, treatment, or disposal at issue and the action does
20 not result in a greater risk to human health and the environment.
21 Prior to the adoption of such rules and regulations, the Department
22 may authorize the continuation of activities covered under this
23 subsection if it determines that the activities will be conducted in
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1 a manner that is sufficiently protective of human health and the
2 environment as determined by the Department.

3 B. Nothing in this section shall relieve the manufacturer of
4 PFAS-containing material from liability related to the storage,
5 treatment, and/or disposal of PFAS waste.

6 C. PFAS waste generated in or transported from another state
7 shall maintain the same classification or characterization it would
8 receive in the state of origin, unless such classification or
9 characterization is less protective of human health and the
10 environment than the classification or characterization it would
11 have received if generated in this state. If the PFAS waste
12 generated in or transported from another state is banned from
13 disposal in the state of origin, then the waste is similarly banned
14 from disposal in Oklahoma.

15 SECTION 12. This act shall become effective November 1, 2024.

16 Passed the House of Representatives the 12th day of March, 2024.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ____ day of _____, 2024.

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Presiding Officer of the Senate

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