

118TH CONGRESS
1ST SESSION

S. 1433

To exempt certain aviation entities from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 for the release of certain perfluoroalkyl or polyfluoroalkyl substances, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2023

Ms. LUMMIS (for herself, Mr. BOOZMAN, Mr. CRAMER, Mr. GRAHAM, Mr. MULLIN, Mr. RICKETTS, Mr. SULLIVAN, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To exempt certain aviation entities from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 for the release of certain perfluoroalkyl or polyfluoroalkyl substances, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Airports PFAS Liabil-
5 ity Protection Act”.

1 **SEC. 2. EXEMPTION UNDER CERCLA.**

2 (a) DEFINITIONS.—In this section:

3 (1) COVERED PERFLUOROALKYL OR
4 POLYFLUOROALKYL SUBSTANCE.—The term “cov-
5 ered perfluoroalkyl or polyfluoroalkyl substance”
6 means a non-polymeric perfluoroalkyl or
7 polyfluoroalkyl substance that contains at least 2 se-
8 quential fully fluorinated carbon atoms, excluding
9 gases and volatile liquids, that is a hazardous sub-
10 stance (as defined in section 101 of the Comprehen-
11 sive Environmental Response, Compensation, and
12 Liability Act of 1980 (42 U.S.C. 9601)).

13 (2) INDIAN TRIBE.—The term “Indian Tribe”
14 has the meaning given the term in section 4 of the
15 Indian Self-Determination and Education Assistance
16 Act (25 U.S.C. 5304).

17 (3) SPONSOR.—The term “sponsor” has the
18 meaning given the term in section 47102 of title 49,
19 United States Code.

20 (b) EXEMPTION.—Subject to subsection (c), no per-
21 son (including the United States, any State, or an Indian
22 Tribe) may recover costs or damages from a sponsor, in-
23 cluding a sponsor of the civilian portion of a joint-use air-
24 port or a shared-use airport (as those terms are defined
25 in section 139.5 of title 14, Code of Federal Regulations
26 (or a successor regulation)), under the Comprehensive En-

1 vironmental Response, Compensation, and Liability Act of
2 1980 (42 U.S.C. 9601 et seq.) for costs arising from a
3 release to the environment of a covered perfluoroalkyl or
4 polyfluoroalkyl substance.

5 (c) REQUIREMENTS.—Subsection (b) shall only
6 apply—

7 (1) if the release of a covered perfluoroalkyl or
8 polyfluoroalkyl substance by a sponsor resulted from
9 the use of an aqueous film forming foam; and

10 (2) if the use described in paragraph (1) was—

11 (A) required by the Federal Aviation Ad-
12 ministration for compliance with part 139 of
13 title 14, Code of Federal Regulations (or suc-
14 cessor regulations); and

15 (B) carried out in accordance with Federal
16 Aviation Administration standards and guid-
17 ance on the use of that substance.

18 (d) SAVINGS PROVISION.—Nothing in this section
19 precludes liability for damages or costs associated with the
20 release of a covered perfluoroalkyl or polyfluoroalkyl sub-
21 stance by a sponsor if that sponsor acted with gross neg-
22 ligence or willful misconduct in the use of an aqueous film
23 forming foam.

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