



2019 ASSEMBLY BILL 323

June 27, 2019 - Introduced by Representatives NYGREN, SARGENT, BALLWEG, FELZKOWSKI, GUNDRUM, JAMES, KRUG, MURSAU, NOVAK, OLDENBURG, SKOWRONSKI, SPIROS, TUSLER, WICHGERS, ZIMMERMAN and BROOKS, cosponsored by Senators COWLES and PETROWSKI. Referred to Committee on Environment.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to create** 299.48 of the statutes; **relating to:** regulating fire fighting
2 foam that contains certain contaminants and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill prohibits the use of fire fighting foams that are designed for use on a flammable liquid fire and that contain intentionally added perfluoroalkyl or polyfluoroalkyl substances (PFAS), unless used in emergency fire fighting or fire prevention operations; or unless used for testing purposes if the testing facility has in place appropriate containment, treatment, and disposal measures, as determined by rule by the Department of Natural Resources. A person who violates this prohibition is subject to the same penalty that applies under current law to other general environmental provisions, which is a forfeiture of between \$10 and \$5,000 for each violation.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 299.48 of the statutes is created to read:
4 **299.48 Fire fighting foam containing PFAS.** (1) **DEFINITIONS.** In this
5 section:

ASSEMBLY BILL 323**SECTION 1**

1 (a) "Class B fire fighting foam" means a foam designed for use on a flammable
2 liquid fire.

3 (b) "PFAS" means a perfluoroalkyl or polyfluoroalkyl substance.

4 **(2) PROHIBITION.** Except as provided under sub. (3), no person may use or
5 otherwise discharge, including for training purposes, a class B fire fighting foam that
6 contains intentionally added PFAS.

7 **(3) EXEMPTIONS.** The prohibition under sub. (2) does not apply to any of the
8 following:

9 (a) The use or discharge of a class B fire fighting foam that contains
10 intentionally added PFAS as part of an emergency fire fighting or fire prevention
11 operation.

12 (b) The use of class B fire fighting foam that contains intentionally added PFAS
13 for testing purposes, including calibration testing, conformance testing, or fixed
14 system testing, if the testing facility has implemented appropriate containment,
15 treatment, and disposal measures to prevent releases of the foam to the
16 environment.

17 **(4) CONSTRUCTION.** Nothing in this section shall be construed as prohibiting the
18 manufacture, sale, or distribution of a class B fire fighting foam that contains
19 intentionally added PFAS.

20 **(5) RULES.** The department shall promulgate rules to implement and
21 administer this section, including to determine appropriate containment, treatment,
22 and disposal measures for testing facilities under sub. (3) (b).

23 **SECTION 2. Nonstatutory provisions.**

