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Seventy-third General Assembly
STATE OF COLORADO

REREVISED
This Version Includes All Amendments
Adopted in the Second House

LLS NO. 22-0351.01 Sarah Lozano x3858 **HOUSE BILL 22-1345**

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May 9, 2022

SENATE
Amended 2nd Reading
May 6, 2022

HOUSE
3rd Reading Unamended
May 2, 2022

HOUSE
Amended 2nd Reading
April 29, 2022

House Committees
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A BILL FOR AN ACT

CONCERNING MEASURES TO INCREASE PROTECTIONS FROM PERFLUOROALKYL AND POLYFLUOROALKYL CHEMICALS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

Section 1 of the bill enacts the "Perfluoroalkyl and Polyfluoroalkyl Chemicals Consumer Protection Act" to establish a regulatory scheme that collects information from product manufacturers regarding the use of perfluoroalkyl and polyfluoroalkyl chemicals (PFAS chemicals) in their products and phases out the sale or distribution of products that contain intentionally added PFAS chemicals. **Section 1** requires

manufacturers of products that are sold or distributed in the state and that contain intentionally added PFAS chemicals to provide written notification (notification) to the executive director (executive director) of the Colorado department of public health and environment (department) that provides:

- The trade name of the product;
- A description of the purpose that PFAS chemicals serve in the product;
- Contact information for the manufacturer; and
- Any additional information required by the executive director.

For manufacturers that were already selling or distributing a product containing intentionally added PFAS chemicals in the state before January 1, 2025, the notification must be made no later than 30 days before January 1, 2025. For manufacturers that begin to sell or distribute a product containing intentionally added PFAS chemicals in the state on or after January 1, 2025, the notification must be made at least 30 days after the manufacturer begins selling or distributing the product in the state.

No later than 30 days after the executive director receives a notification, the executive director shall publish the trade name of the product and manufacturer name on the department's website. A manufacturer submitting the notification to the executive director must pay a fee established by the executive director. The fee will be credited to the perfluoroalkyl and polyfluoroalkyl substances cash fund (fund).

On and after January 1, 2024, a person shall not sell or distribute in the state any products in the following product categories if the products contain intentionally added PFAS chemicals:

- Carpets or rugs;
- Cookware;
- Cosmetics;
- Fabric treatments;
- Food packaging;
- Juvenile products;
- Oil and gas products;
- Textile furnishings; and
- Upholstered furniture.

No later than January 1, 2025, the executive director will identify by rule a list of priority products and priority product categories. No later than December 31, 2027, the executive director will promulgate rules prohibiting the sale or distribution of said priority products or priority product categories that contain intentionally added PFAS chemicals and that have not been exempted by the executive director.

No later than January 1, 2028, the executive director will identify by rule another list of priority products or priority product categories. No

later than December 31, 2030, the executive director will promulgate rules prohibiting the sale or distribution of said priority products or priority product categories that contain intentionally added PFAS chemicals and that have not been exempted by the executive director.

A manufacturer or consumer that applies for an exemption for a priority product or priority product category identified by the executive director must pay a fee established by the executive director. The fee will be credited to the fund.

Section 2 includes products that do not contain intentionally added PFAS chemicals in the definition of "environmentally preferable products" for the purposes of state agency procurement.

The bill also:

- Defines certain terminology (**section 3**);
- As of January 1, 2024, repeals the exemption for gasoline distribution facilities, refineries, and chemical plants from the restriction (sales restriction) on the sale of class B firefighting foam (firefighting foam) that contains PFAS chemicals (**section 4**);
- As of January 1, 2024, allows the executive director to grant a temporary exemption from the sales restriction for the purchase of firefighting foam that is used to extinguish class B fires at a facility that engages in the wholesale distribution of crude petroleum (**section 4**);
- Requires a person that uses firefighting foam to prohibit a release of the firefighting foam into the environment, fully contain the firefighting foam during its use, safely store the firefighting foam, and report certain information to the water quality spills hotline within 24 hours if there is a release of the firefighting foam into the environment (**section 5**);
- Requires a person that uses firefighting foam to report its use to the water quality spills hotline within 24 hours after the use (**section 5**); and
- Authorizes the attorney general to enforce laws regulating firefighting foams that contain PFAS chemicals (**section 6**).

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 6 to article 15 of title 25 as follows:

PART 6

PERFLUOROALKYL AND POLYFLUOROALKYL CHEMICALS

25-15-601. Short title. THE SHORT TITLE OF THIS PART 14 IS THE "PERFLUOROALKYL AND POLYFLUOROALKYL CHEMICALS CONSUMER PROTECTION ACT".

25-15-602. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) CONTAMINATION OF THE SOIL AND WATER IN THE STATE FROM PFAS CHEMICALS POSES A SIGNIFICANT THREAT TO THE ENVIRONMENT OF THE STATE AND THE HEALTH OF ITS RESIDENTS;

(b) A GROWING BODY OF SCIENTIFIC RESEARCH HAS FOUND THAT EXPOSURE TO PFAS CHEMICALS MAY LEAD TO SERIOUS AND HARMFUL HEALTH EFFECTS;

(c) THE FULL EXTENT OF THE CONTAMINATION OF PFAS CHEMICALS IN THE SOIL AND WATER OF THE STATE IS NOT CURRENTLY KNOWN BUT IS ANTICIPATED TO BE WIDESPREAD AND TO REQUIRE A SIGNIFICANT EXPENDITURE OF RESOURCES TO BE IDENTIFIED AND REMEDIATED;

(d) PFAS CHEMICALS CONTINUE TO BE USED IN PRODUCTS ACROSS A VARIETY OF INDUSTRIES AND FOR MANY DIFFERENT PURPOSES;

(e) PFAS CHEMICALS ARE NOT NECESSARY IN MANY PRODUCTS AND COULD BE REPLACED WITH LESS HARMFUL CHEMICALS OR TECHNOLOGIES; AND

(f) IF THE WIDESPREAD SALE AND DISTRIBUTION OF PRODUCTS THAT CONTAIN INTENTIONALLY ADDED PFAS CHEMICALS CONTINUES IN THE STATE:

(I) THERE IS A LARGER RISK OF PFAS CHEMICALS MIGRATING INTO THE NATURAL ENVIRONMENT;

(II) RESIDENTS OF THE STATE WILL LIKELY SUFFER ADVERSE

HEALTH EFFECTS FROM EXPOSURE TO PFAS CHEMICALS; AND

(III) THE STATE AND LOCAL COMMUNITIES WILL BE BURDENED WITH THE TESTING, MONITORING, AND CLEAN-UP COSTS NECESSARY TO KEEP RESIDENTS SAFE FROM EXPOSURE TO PFAS CHEMICALS.

(2) THE GENERAL ASSEMBLY THEREFORE DETERMINES AND DECLARES THAT IT IS IMPERATIVE FOR THE HEALTH AND SAFETY OF THE STATE'S RESIDENTS TO CREATE A REGULATORY SCHEME THAT PHASES

OUT THE SALE OR DISTRIBUTION OF CERTAIN PRODUCTS AND PRODUCT CATEGORIES IN THE STATE THAT CONTAIN INTENTIONALLY ADDED PFAS CHEMICALS.

25-15-603. Definitions - repeal. AS USED IN THIS PART 14, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADULT MATTRESS" MEANS A MATTRESS PRODUCT THAT IS NOT A CRIB OR A TODDLER MATTRESS.

(2) "CARPET OR RUG" MEANS A FABRIC PRODUCT MARKETED OR INTENDED FOR USE AS A FLOOR COVERING IN HOUSEHOLDS OR BUSINESSES.

(3) "CONSUMER" MEANS THE END USER OF A PRODUCT.

(4) (a) "COOKWARE" MEANS A DURABLE HOUSEWARE PRODUCT THAT IS USED IN RESIDENCES OR KITCHENS TO PREPARE, DISPENSE, OR STORE FOOD OR BEVERAGES.

(b) "COOKWARE" INCLUDES POTS, PANS, SKILLETS, GRILLS, BAKING SHEETS, BAKING MOLDS, TRAYS, BOWLS, AND COOKING UTENSILS.

(5) (a) "COSMETIC" MEANS A PRODUCT THAT IS INTENDED TO BE RUBBED OR INTRODUCED INTO; POURED, SPRINKLED, OR SPRAYED ON; OR OTHERWISE APPLIED TO THE HUMAN BODY FOR CLEANING, CLEANSING, BEAUTIFYING, PROMOTING ATTRACTIVENESS, OR ALTERING THE

APPEARANCE.

(b) "COSMETIC" INCLUDES A SKIN MOISTURIZER, PERFUME, LIPSTICK, NAIL POLISH, EYE OR FACIAL MAKEUP PREPARATION, SHAMPOO, CONDITIONER, PERMANENT WAVE, HAIR DYE, AND DEODORANT.

(c) "COSMETIC" DOES NOT INCLUDE A PRODUCT THAT REQUIRES A PRESCRIPTION FOR DISTRIBUTION OR DISPENSATION.

(d) (I) "COSMETIC" DOES NOT INCLUDE HYDROFLUOROOLEFINS USED AS PROPELLANTS IN COSMETICS.

(II) THIS SUBSECTION (5)(d) IS REPEALED EFFECTIVE JANUARY 1, 2027.

(6) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(7) "DRILLING FLUID" MEANS A FLUID THAT IS CIRCULATED INTO THE BOREHOLE OF A WELL TO LUBRICATE AND COOL THE DRILL BIT.

(8) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

(9) (a) "FABRIC TREATMENT" MEANS A PRODUCT APPLIED TO FABRIC TO GIVE THE FABRIC ONE OR MORE CHARACTERISTICS, INCLUDING STAIN RESISTANCE AND WATER RESISTANCE.

(b) (I) "FABRIC TREATMENT" DOES NOT INCLUDE HYDROFLUOROOLEFINS USED AS PROPELLANTS IN FABRIC TREATMENTS.

(II) THIS SUBSECTION (9)(b) IS REPEALED EFFECTIVE JANUARY 1, 2027.

(10) "FOOD PACKAGE" OR "FOOD PACKAGING" MEANS A PACKAGE OR PACKAGING COMPONENT USED IN DIRECT CONTACT WITH FOOD AND

THAT IS COMPOSED, IN SUBSTANTIAL PART, OF PAPER, PAPERBOARD, OR OTHER MATERIALS ORIGINALLY DERIVED FROM PLANT FIBERS.

(11) "HYDRAULIC FRACTURING FLUID" MEANS THE FLUID, INCLUDING THE APPLICABLE BASE FLUID AND ANY ADDITIVES, INJECTED INTO AN OIL OR GAS WELL TO PERFORM HYDRAULIC FRACTURING OPERATIONS.

(12) (a) "INTENTIONALLY ADDED PFAS CHEMICALS" MEANS PFAS CHEMICALS THAT A MANUFACTURER HAS INTENTIONALLY ADDED TO A PRODUCT AND THAT HAVE A FUNCTIONAL OR TECHNICAL EFFECT ON THE PRODUCT.

(b) "INTENTIONALLY ADDED PFAS CHEMICALS" INCLUDES PFAS CHEMICALS THAT ARE INTENTIONAL BREAKDOWN PRODUCTS OF AN ADDED CHEMICAL.

(13) (a) "JUVENILE PRODUCT" MEANS A PRODUCT DESIGNED FOR USE BY INFANTS OR CHILDREN UNDER TWELVE YEARS OF AGE.

(b) "JUVENILE PRODUCT" INCLUDES:

(I) BASSINETS AND OTHER BEDSIDE SLEEPERS;

(II) BOOSTER SEATS, CAR SEATS, AND OTHER CHILD RESTRAINT SYSTEMS;

(III) CHANGING PADS;

(IV) CO-SLEEPERS;

(V) CRIB OR TODDLER MATTRESSES;

(VI) FLOOR PLAY MATS;

(VII) HIGHCHAIRS AND HIGHCHAIR PADS;

(VIII) INFANT BOUNCERS;

(IX) INFANT CARRIERS;

(X) INFANT OR TODDLER FOAM PILLOWS;

(XI) INFANT SEATS;

(XII) INFANT SLEEP POSITIONERS;

(XIII) INFANT SWINGS;

(XIV) INFANT TRAVEL BEDS;

(XV) INFANT WALKERS;

(XVI) NAP COTS;

(XVII) NURSING PADS AND PILLOWS;

(XVIII) PLAY MATS;

(XIX) PLAYPENS;

(XX) PLAY YARDS;

(XXI) POLYURETHANE FOAM MATS, PADS, OR PILLOWS;

(XXII) PORTABLE FOAM NAP MATS;

(XXIII) PORTABLE INFANT SLEEPERS AND HOOK-ON CHAIRS;

(XXIV) SOFT-SIDED PORTABLE CRIBS; AND

(XXV) STROLLERS.

(c) "JUVENILE PRODUCT" DOES NOT INCLUDE:

(I) ELECTRONIC PRODUCTS, INCLUDING:

(A) PERSONAL COMPUTERS AND ANY ASSOCIATED EQUIPMENT;

(B) AUDIO AND VIDEO EQUIPMENT;

(C) CALCULATORS;

(D) WIRELESS PHONES;

(E) GAMING CONSOLES;

(F) HANDHELD DEVICES INCORPORATING A VIDEO SCREEN; AND

(G) ANY ASSOCIATED PERIPHERAL DEVICE SUCH AS A MOUSE, KEYBOARD, POWER SUPPLY UNIT, OR POWER CORD;

(II) AN INTERNAL COMPONENT OF A JUVENILE PRODUCT THAT WOULD NOT COME INTO DIRECT CONTACT WITH A CHILD'S SKIN OR MOUTH DURING REASONABLY FORESEEABLE USE AND ABUSE OF THE PRODUCT; OR

(III) ADULT MATTRESSES.

(14) (a) "MANUFACTURER" MEANS THE PERSON THAT MANUFACTURES OR ASSEMBLES A PRODUCT OR WHOSE BRAND NAME IS AFFIXED TO A PRODUCT.

(b) "MANUFACTURER" INCLUDES, IF A PRODUCT IS IMPORTED INTO THE UNITED STATES AND THE MANUFACTURER DOES NOT HAVE A PRESENCE IN THE UNITED STATES, THE IMPORTER OR FIRST DOMESTIC DISTRIBUTOR OF THE PRODUCT.

(15) "OIL AND GAS OPERATIONS" HAS THE MEANING SET FORTH IN SECTION 34-60-103 (6.5).

(16) "OIL AND GAS PRODUCTS" MEANS HYDRAULIC FRACTURING FLUIDS, DRILLING FLUIDS, AND PROPPANTS.

(17) "PACKAGE" MEANS MATERIAL THAT IS INTENDED OR USED TO CONTAIN, PROTECT, HANDLE, DELIVER, OR PRESENT A PRODUCT.

(18) "PACKAGING COMPONENT" MEANS AN INDIVIDUAL PART OF A PACKAGE, INCLUDING INTERIOR OR EXTERIOR BLOCKING, BRACING, CUSHIONING, WEATHERPROOFING, EXTERIOR STRAPPING, COATINGS, CLOSURES, INKS, AND LABELS.

(19) "PFAS CHEMICALS" HAS THE MEANING SET FORTH IN SECTION 25-5-1302 (7).

(20) (a) "PRODUCT" MEANS AN ITEM THAT IS MANUFACTURED, ASSEMBLED, OR OTHERWISE PREPARED FOR SALE OR DISTRIBUTION TO CONSUMERS AND THAT IS SOLD OR DISTRIBUTED FOR PERSONAL,

RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL USE, INCLUDING FOR USE IN MAKING OTHER PRODUCTS.

(b) "PRODUCT" INCLUDES ANY PRODUCT COMPONENTS.

(c) "PRODUCT" DOES NOT INCLUDE:

(I) DRUGS, MEDICAL DEVICES, BIOLOGICS, OR DIAGNOSTICS APPROVED OR AUTHORIZED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION OR THE FEDERAL DEPARTMENT OF AGRICULTURE; OR

(II) VETERINARY PESTICIDE PRODUCTS APPROVED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY FOR USE IN ANIMALS; OR

(III) PACKAGING USED FOR THE PRODUCTS DESCRIBED IN SUBSECTIONS (20)(c)(I) AND (20)(c)(II) OF THIS SECTION.

(d) "PRODUCT" DOES NOT INCLUDE A USED PRODUCT OFFERED FOR SALE OR RESALE.

(21) "PRODUCT CATEGORY" MEANS A CLASS OR DIVISION OF PRODUCTS THAT SHARE RELATED CHARACTERISTICS.

(22) "PRODUCT COMPONENT" MEANS AN IDENTIFIABLE COMPONENT OF A PRODUCT, REGARDLESS OF WHETHER THE MANUFACTURER OF THE PRODUCT IS THE MANUFACTURER OF THE COMPONENT.

(23) "PROPPANTS" MEANS MATERIALS THAT ARE INSERTED OR INJECTED INTO AN UNDERGROUND GEOLOGIC FORMATION DURING OIL AND GAS OPERATIONS IN ORDER TO PREVENT FRACTURES FROM CLOSING.

(24) (a) "TEXTILE" MEANS ANY PRODUCT MADE IN WHOLE OR IN PART FROM A NATURAL OR SYNTHETIC FIBER, YARN, OR FABRIC.

(b) "TEXTILE" INCLUDES LEATHER, COTTON, SILK, JUTE, HEMP, WOOL, NYLON, AND POLYESTER.

(c) "TEXTILE" DOES NOT INCLUDE TEXTILES USED IN MEDICAL, PROFESSIONAL, OR INDUSTRIAL SETTINGS.

(25) (a) "TEXTILE FURNISHINGS" MEANS TEXTILES OF A TYPE CUSTOMARILY USED IN HOUSEHOLDS AND BUSINESSES, INCLUDING DRAPERIES, FLOOR COVERINGS, FURNISHINGS, BEDDING, TOWELS, AND TABLECLOTHS.

(b) "TEXTILE FURNISHINGS" DOES NOT INCLUDE TEXTILE FURNISHINGS USED IN MEDICAL, PROFESSIONAL, OR INDUSTRIAL SETTINGS.

(26) "UPHOLSTERED FURNITURE" MEANS ANY ARTICLE OF FURNITURE THAT IS:

(a) DESIGNED FOR SITTING, RESTING, OR RECLINING; AND

(b) WHOLLY OR PARTIALLY STUFFED WITH FILLING MATERIAL.

25-15-604. Prohibition on the sale or distribution of certain consumer products that contain intentionally added PFAS chemicals - product label requirements for cookware. (1) ON AND AFTER JANUARY 1, 2024, A PERSON SHALL NOT SELL, OFFER FOR SALE, DISTRIBUTE FOR SALE, OR DISTRIBUTE FOR USE IN THE STATE ANY PRODUCT IN ANY OF THE FOLLOWING PRODUCT CATEGORIES IF THE PRODUCT CONTAINS INTENTIONALLY ADDED PFAS CHEMICALS:

(a) CARPETS OR RUGS;

(b) FABRIC TREATMENTS;

(c) FOOD PACKAGING;

(d) JUVENILE PRODUCTS; AND

(e) OIL AND GAS PRODUCTS.

(2) (a) ON AND AFTER JANUARY 1, 2024, A MANUFACTURER OF COOKWARE SOLD IN THE STATE THAT CONTAINS INTENTIONALLY ADDED PFAS CHEMICALS IN THE HANDLE OF THE PRODUCT OR IN ANY PRODUCT SURFACE THAT COMES INTO CONTACT WITH FOOD, FOODSTUFFS, OR BEVERAGES SHALL LIST THE PRESENCE OF PFAS CHEMICALS ON THE PRODUCT LABEL AND SHALL INCLUDE ON THE PRODUCT LABEL A STATEMENT, IN BOTH ENGLISH AND SPANISH, THAT READS: "FOR MORE INFORMATION ABOUT PFAS CHEMICALS IN THIS PRODUCT, VISIT" FOLLOWED BY BOTH OF THE FOLLOWING:

(I) AN INTERNET WEBSITE ADDRESS FOR A WEB PAGE THAT PROVIDES INFORMATION ABOUT WHY THE PFAS CHEMICALS ARE INTENTIONALLY ADDED; AND

(II) A QUICK RESPONSE (QR) CODE OR OTHER MACHINE-READABLE CODE, CONSISTING OF AN ARRAY OF SQUARES, USED FOR STORING AN INTERNET WEBSITE FOR A WEB PAGE THAT PROVIDES INFORMATION ABOUT WHY THE PFAS CHEMICALS ARE INTENTIONALLY ADDED.

(b) A MANUFACTURER OF COOKWARE SOLD IN THE STATE SHALL ENSURE THAT THE STATEMENT REQUIRED ON THE PRODUCT LABEL BY SUBSECTION (2)(a) OF THIS SECTION IS VISIBLE AND LEGIBLE TO THE CONSUMER, INCLUDING ON THE PRODUCT LISTING FOR ONLINE SALES.

(c) COOKWARE THAT MEETS BOTH OF THE FOLLOWING REQUIREMENTS IS EXEMPT FROM THE REQUIREMENT OF THIS SUBSECTION (2):

(I) THE SURFACE AREA OF THE COOKWARE CANNOT FIT A PRODUCT

LABEL OF AT LEAST TWO SQUARE INCHES; AND

(II) THE COOKWARE DOES NOT HAVE EITHER OF THE FOLLOWING:

(A) AN EXTERIOR CONTAINER OR WRAPPER ON WHICH A PRODUCT LABEL CAN APPEAR OR BE AFFIXED; AND

(B) A TAG OR OTHER ATTACHMENT WITH INFORMATION ABOUT THE PRODUCT ATTACHED TO THE COOKWARE.

(d) A MANUFACTURER OF COOKWARE SOLD IN THE STATE SHALL ENSURE THAT THE STATEMENT OTHERWISE REQUIRED ON THE PRODUCT LABEL BY SUBSECTION (2)(a) OF THIS SECTION IS INCLUDED ON THE PRODUCT LISTING FOR ONLINE SALES PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION.

(e) ON AND AFTER JANUARY 1, 2024, A MANUFACTURER SHALL NOT MAKE A CLAIM, ON THE COOKWARE PACKAGE, THAT THE COOKWARE IS FREE OF ANY PFAS CHEMICALS UNLESS NO INDIVIDUAL PFAS CHEMICAL IS INTENTIONALLY ADDED TO THE COOKWARE.

(f) COOKWARE THAT CONTAINS ONE OR MORE INTENTIONALLY ADDED PFAS CHEMICALS IN THE HANDLE OF THE PRODUCT OR IN ANY PRODUCT SURFACE THAT COMES INTO CONTACT WITH FOOD, FOODSTUFFS, OR BEVERAGES SHALL NOT BE SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN THE STATE UNLESS THE COOKWARE AND THE MANUFACTURER OF THE COOKWARE COMPLY WITH THIS PART 6.

(3) ON AND AFTER JANUARY 1, 2025, A PERSON SHALL NOT SELL, OFFER FOR SALE, DISTRIBUTE FOR SALE, OR DISTRIBUTE FOR USE THE FOLLOWING PRODUCTS THAT CONTAIN INTENTIONALLY ADDED PFAS CHEMICALS:

(a) COSMETICS;

(b) INDOOR TEXTILE FURNISHINGS; AND

(c) INDOOR UPHOLSTERED FURNITURE.

(4) ON AND AFTER JANUARY 1, 2027, A PERSON SHALL NOT SELL, OFFER FOR SALE, DISTRIBUTE FOR SALE, OR DISTRIBUTE FOR USE THE FOLLOWING PRODUCTS THAT CONTAIN INTENTIONALLY ADDED PFAS CHEMICALS:

(a) OUTDOOR TEXTILE FURNISHINGS; AND

(b) OUTDOOR UPHOLSTERED FURNITURE.

SECTION 2. In Colorado Revised Statutes, 24-103-904, **amend** (1) as follows:

24-103-904. Purchasing preference for environmentally preferable products - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Environmentally preferable products" means products, INCLUDING PRODUCTS THAT DO NOT CONTAIN INTENTIONALLY ADDED PFAS CHEMICALS, that have a lesser or reduced adverse effect on human health and the environment when compared with competing products that serve the same purpose. The product comparison may consider such factors as the availability of any raw materials used in the product being purchased and the availability, use, production, safe operation, maintenance, packaging, distribution, disposal, or recyclability of the product being purchased.

(b) "INTENTIONALLY ADDED PFAS CHEMICALS" HAS THE MEANING SET FORTH IN SECTION 25-15-603 (12).

SECTION 3. In Colorado Revised Statutes, 25-5-1302, **add** (1.5), (3.6), (5.8), (7.5), (9), and (10) as follows:

25-5-1302. Definitions. As used in this part 13, unless the context otherwise requires:

(1.5) "CLASS B FIRE" MEANS A FIRE INVOLVING FLAMMABLE LIQUIDS OR GASES, INCLUDING PETROLEUM, PAINT, ALCOHOL, SOLVENT, OIL, AND TAR.

(3.6) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

(5.8) "INTENTIONALLY ADDED PFAS CHEMICALS" HAS THE MEANING SET FORTH IN SECTION 25-15-603 (12).

(7.5) "RELEASE" MEANS ANY SPILLING, LEAKING, PUMPING, POURING, EMPTYING, DISCHARGING, INJECTING, ESCAPING, LEACHING, DUMPING, OR DISPOSING OF A CHEMICAL INTO THE ENVIRONMENT.

(9) "TERMINAL" MEANS A FACILITY THAT ENGAGES IN THE WHOLESALE DISTRIBUTION OF CRUDE PETROLEUM AND PETROLEUM PRODUCTS, INCLUDING LIQUIFIED PETROLEUM GAS FROM BULK LIQUID STORAGE FACILITIES.

(10) "WATER QUALITY SPILLS HOTLINE" MEANS THE PHONE SYSTEM CREATED AND MAINTAINED BY THE DEPARTMENT FOR THE REPORTING OF SPILLS OR DISCHARGES INTO STATE WATERS TO THE DEPARTMENT.

SECTION 4. In Colorado Revised Statutes, **add** 25-5-1303.5 as follows:

25-5-1303.5. Restriction on use of certain firefighting foams. (1) BEGINNING JANUARY 1, 2024, A PERSON THAT USES CLASS B FIREFIGHTING FOAM CONTAINING INTENTIONALLY ADDED PFAS CHEMICALS SHALL:

(a) NOT ALLOW A RELEASE OF THE CLASS B FIREFIGHTING FOAM;

(b) FULLY CONTAIN THE CLASS B FIREFIGHTING FOAM BY

IMPLEMENTING APPROPRIATE CONTAINMENT MEASURES, WHICH MAY INCLUDE BUNDS AND PONDS, THAT:

(I) ARE CONTROLLED;

(II) ARE IMPERVIOUS TO PFAS CHEMICALS; AND

(III) DO NOT ALLOW THE CLASS B FIREFIGHTING FOAM OR ANY ASSOCIATED FIREWATER, WASTEWATER, RUNOFF, OR OTHER WASTE TO BE RELEASED;

(c) SAFELY STORE ALL CLASS B FIREFIGHTING FOAM AND ANY ASSOCIATED FIREWATER, WASTEWATER, RUNOFF, AND OTHER WASTE IN A WAY THAT PREVENTS THEIR RELEASE UNTIL THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY HAS PUBLISHED GUIDANCE ON THE PROPER DISPOSAL AND DESTRUCTION METHODS FOR PFAS CHEMICALS. AFTER THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY HAS PUBLISHED GUIDANCE ON THE PROPER DISPOSAL AND DESTRUCTION METHODS FOR PFAS CHEMICALS, THE PERSON THAT USES THE CLASS B FIREFIGHTING FOAM CONTAINING INTENTIONALLY ADDED PFAS CHEMICALS SHALL DISPOSE OF AND DESTROY THE CLASS B FIREFIGHTING FOAM IN ACCORDANCE WITH SUCH GUIDANCE.

(d) IF THERE IS A RELEASE OF THE CLASS B FIREFIGHTING FOAM OR ANY ASSOCIATED FIREWATER, WASTEWATER, RUNOFF, OR OTHER WASTE, REPORT THE FOLLOWING INFORMATION TO THE WATER QUALITY SPILLS HOTLINE WITHIN TWENTY-FOUR HOURS AFTER ITS RELEASE:

(I) THE TRADE NAME AND PRODUCT NAME OF THE CLASS B FIREFIGHTING FOAM;

(II) THE QUANTITY OF CLASS B FIREFIGHTING FOAM USED THAT CONTAINS INTENTIONALLY ADDED PFAS CHEMICALS;

(III) THE AMOUNT AND TYPE OF PFAS CHEMICALS IN THE CLASS

B FIREFIGHTING FOAM; AND

(IV) THE AMOUNT OF CLASS B FIREFIGHTING FOAM OR ANY ASSOCIATED FIREWATER, WASTEWATER, RUNOFF, AND OTHER WASTE THAT IS RELEASED; AND

(e) DOCUMENT ANY MEASURES UNDERTAKEN PURSUANT TO THE REQUIREMENTS OF THIS SECTION. IN INVESTIGATING COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION, THE ATTORNEY GENERAL MAY REQUEST THAT THE PERSON PROVIDE THE DOCUMENTATION CREATED PURSUANT TO THE REQUIREMENTS OF THIS SUBSECTION (1)(e) TO THE ATTORNEY GENERAL.

(2) BEGINNING JANUARY 1, 2024, A PERSON THAT USES CLASS B FIREFIGHTING FOAM THAT CONTAINS INTENTIONALLY ADDED PFAS CHEMICALS MUST REPORT THE USE OF THE CLASS B FIREFIGHTING FOAM TO THE WATER QUALITY SPILLS HOTLINE WITHIN TWENTY-FOUR HOURS AFTER ITS USE.

(3) (a) EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF THIS SECTION, THE RESTRICTIONS AND REQUIREMENTS IN SUBSECTIONS (1) AND (2) OF THIS SECTION DO NOT APPLY TO THE USE OF CLASS B FIREFIGHTING FOAM WHERE THE INCLUSION OF PFAS CHEMICALS IS REQUIRED OR AUTHORIZED BY FEDERAL LAW, INCLUDING 14 CFR 139, OR IMPLEMENTED IN ACCORDANCE WITH FEDERAL AVIATION ADMINISTRATION GUIDANCE, OR OTHERWISE REQUIRED FOR A MILITARY PURPOSE.

(b) IF THE EXECUTIVE DIRECTOR DETERMINES BY RULE THAT THE LAWS, GUIDANCE, OR REQUIREMENTS DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION NO LONGER APPLY TO A PARTICULAR INDUSTRY OR SECTOR, THE EXECUTIVE DIRECTOR SHALL PROVIDE NOTICE ON THE DEPARTMENT'S WEBSITE OF THIS DETERMINATION AND SHALL PROMULGATE RULES

PROHIBITING USERS OF CLASS B FIREFIGHTING FOAM WITHIN THAT INDUSTRY OR SECTOR FROM USING CLASS B FIREFIGHTING FOAM IN VIOLATION OF THIS SECTION, WHICH RULES SHALL APPLY NO SOONER THAN TWO YEARS AFTER THE EXECUTIVE DIRECTOR'S DETERMINATION.

SECTION 5. In Colorado Revised Statutes, **amend** 25-5-1307 as follows:

25-5-1307. Civil penalty. (1) A manufacturer or a person who violates ~~the provisions of~~ this part 13 is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. A manufacturer or a person who violates this part 13 repeatedly is subject to a civil penalty not to exceed ten thousand dollars for each repeat offense. Penalties collected under this part 13 must be deposited in the local firefighter safety and disease prevention fund created in section 24-33.5-1231.

(2) THE ATTORNEY GENERAL HAS THE AUTHORITY TO ENFORCE THIS PART 13 AND TO CONDUCT CIVIL INVESTIGATIONS AND BRING CIVIL ACTIONS FOR VIOLATIONS OF THIS PART 13.

SECTION 6. In Colorado Revised Statutes, 25-5-1309, **amend** (1) introductory portion as follows:

25-5-1309. Restriction on the use of certain firefighting foam at certain airports - definitions. (1) Beginning January 1, ~~2023~~ 2024, the use of class B firefighting foam that contains intentionally added perfluoroalkyl and polyfluoroalkyl substances shall be prohibited at structures used for the storage or maintenance of aircraft where the structure is located in an airport that:

SECTION 7. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.