

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

H.B. 1109  
May 14, 2020  
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40577-RIa-36

Short Title: PFAS Manufacture/Use/Sale Ban. (Public)

Sponsors: Representatives Harrison, Butler, and Autry (Primary Sponsors).

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 IN ORDER TO PROTECT  
4 PUBLIC HEALTH.

5 The General Assembly of North Carolina enacts:

6  
7 **PART I. BAN PFAS**

8 **SECTION 1.** Article 21A of Chapter 143 of the General Statutes is amended by  
9 adding a new Part to read:

10 "Part 8. Ban Manufacture, Use, and Distribution of Certain Toxic Chemicals.

11 "**§ 143-215.104LL. Prohibition on manufacture, use, and distribution of PFAS within the**  
12 **State.**

13 (a) No person may knowingly do any of the following:

14 (1) Manufacture PFAS for use within the State or manufacture PFAS for export  
15 from the State.

16 (2) Use any PFAS for the production of any product within the State, or for export  
17 from the State, except for products specifically authorized or required to  
18 contain PFAS under federal law.

19 (3) Process or distribute in commerce any PFAS, or any product containing  
20 PFAS, for use within the State or for export from the State, except for products  
21 specifically authorized or required to contain PFAS under federal law.

22 (b) For purposes of this section, "PFAS" means perfluoroalkyl and polyfluoroalkyl  
23 substances, a class of fluorinated organic chemicals containing at least one fully fluorinated  
24 carbon atom.

25 "**§ 143-215.104MM. Civil penalties.**

26 (a) The Secretary may assess a civil penalty of not more than five thousand dollars  
27 (\$5,000) or, if the violation involves a hazardous waste, as defined in G.S. 130A-290, of not more  
28 than twenty-five thousand dollars (\$25,000) against any person who violates a requirement of  
29 this Part.

30 (b) If any action or failure to act for which a penalty may be assessed under subsection  
31 (a) of this section is a repeat offense, the Secretary may assess a penalty not to exceed ten  
32 thousand dollars (\$10,000) per occurrence. A penalty for multiple occurrences shall not exceed  
33 two hundred thousand dollars (\$200,000) in any month.

34 (c) In determining the amount of the penalty, the Secretary shall consider the factors set  
35 out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty  
36 assessments that are presented to the Commission for final agency decision.



1        (d) The Secretary shall notify any person assessed a civil penalty for the assessment and  
2 the specific reasons therefor by registered or certified mail or by any means authorized by  
3 G.S. 1A-1, Rule 4. Contested case petitions shall be filed pursuant to G.S. 150B-23 within 30  
4 days of receipt of the notice of assessment.

5        (e) Requests for remission of civil penalties shall be filed with the Secretary. Remission  
6 requests shall not be considered unless made within 30 days of receipt of the notice of assessment.  
7 Remission requests must be accompanied by a waiver of the right to a contested case hearing  
8 pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the  
9 assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and (d), remission  
10 requests may be resolved by the Secretary and the violator. If the Secretary and the violator are  
11 unable to resolve the request, the Secretary shall deliver the remission request and the  
12 recommended action to the Committee on Civil Penalty Remissions of the Environmental  
13 Management Commission appointed pursuant to G.S. 143B-282.1(c).

14        (f) If any civil penalty has not been paid within 30 days after notice of assessment has  
15 been served on the violator, the Secretary shall request the Attorney General to institute a civil  
16 action in the superior court of any county in which the violator resides or the violator's principal  
17 place of business is located in order to recover the amount of the assessment, unless the violator  
18 contests the assessment as provided in subsection (d) of this section or requests remission of the  
19 assessment in whole or in part as provided in subsection (e) of this section. If any civil penalty  
20 has not been paid within 30 days after the final agency decision or order has been served on the  
21 violator, the Secretary shall request the Attorney General to institute a civil action in the superior  
22 court of any county in which the violator resides or the violator's principal place of business is  
23 located to recover the amount of the assessment. A civil action must be filed within three years  
24 of the date the final agency decision or court order was served on the violator."  
25

## 26 **PART II. FUNDING FOR PFAS MONITORING AND ENFORCEMENT**

27        **SECTION 2.** There is appropriated from the General Fund to the Department of  
28 Environmental Quality the sum of one hundred thousand dollars (\$100,000) in nonrecurring  
29 funds for the 2020-2021 fiscal year to fund additional monitoring and enforcement activities to  
30 address PFAS contamination in the State.  
31

## 32 **PART III. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

33        **SECTION 3.** If any section or provision of this act is declared unconstitutional or  
34 invalid by the courts, it does not affect the validity of this act as a whole or any part other than  
35 the part so declared to be unconstitutional or invalid.

36        **SECTION 4.** This act is effective when it becomes law.