

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 864

Short Title: PFAS Pollution and Polluter Liability. (Public)

Sponsors: Representatives Davis and Iler (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Environment, if favorable, Appropriations, if favorable, Rules, Calendar, and Operations of the House

April 26, 2023

A BILL TO BE ENTITLED

AN ACT TO PROTECT THE CITIZENS OF NORTH CAROLINA FROM DRINKING WATER CONTAMINATED BY GENX AND OTHER PFAS COMPOUNDS.

The General Assembly of North Carolina enacts:

PART I. ABATEMENT OF PFAS EXCEEDANCES IN PUBLIC WATER SYSTEMS

SECTION 1. Article 1 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-19.1. Abatement of PFAS exceedances.

(a) The following definitions apply in this section:

(1) Permissible concentration level. – Means both of the following:

a. For an individual per- and polyfluoroalkyl substances (PFAS) compound, the lesser of (i) 10 parts per trillion (ppt) or (ii) any maximum contaminant level that may be established by the United States Environmental Protection Agency for the PFAS compound in question.

b. For combined PFAS compounds, a total concentration of 70 ppt.

(2) PFAS manufacturer. – Means facilities that produce PFAS compounds or precursors through processes including, but not limited to, electrochemical fluorination (ECF), telomerization, fluorocarbon polymerization, and production of fluoropolymers. The term shall not include PFAS customers of PFAS manufacturers that use raw PFAS feedstock, for example: (i) to produce commercial or consumer goods, such as weatherproof caulking, or (ii) as intermediary products for use in the manufacture of commercial goods, such as a greaseproof coating for a pizza box.

(3) Responsible party. – Means a PFAS manufacturer whose discharge or release of PFAS into the environment has caused or contributed to the presence of PFAS in a public water system as described in subsection (b) of this section.

(4) Secretary. – Means the Secretary of Environmental Quality.

(b) If the Secretary determines that the concentration of any PFAS in a public water system, including any raw water intake, regardless of the system's raw water source, including surface water, public well, or pumped groundwater storage, has exceeded a permissible concentration level, the Secretary may order the responsible party to pay the public water system any actual and necessary costs incurred by the public water system to remove, correct, or abate



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1 any adverse effects upon the water supply resulting from the contamination for which the person
2 is responsible. Such costs shall include costs to procure, implement, maintain, and operate
3 technology to reduce PFAS concentrations in finished drinking water below the permissible
4 concentration level. If a responsible party refuses to comply with an order, the Secretary may
5 institute an action in the superior court of the county where the public water system exists to
6 enforce the order. The action shall be calendared for trial within 60 days after service of the
7 complaint upon the defendant.

8 (c) A responsible party shall be jointly and severally liable for all actual and necessary
9 costs imposed pursuant to subsection (b) of this section. Nothing in this section shall limit or
10 diminish any rights of contribution for costs incurred herein.

11 (d) A public water system shall reimburse ratepayers of the system through a reduction
12 in future rates charged if (i) the public water system has previously expended funds to remove,
13 correct, or abate any adverse effects upon its water supply resulting from PFAS contamination,
14 (ii) the amount of funds expended by the public water system for that purpose has been included
15 in rates charged to its ratepayers, and (iii) the funds expended by the public water system are
16 subsequently reimbursed by the responsible party as the result of an order issued pursuant to
17 subsection (b) of this section."

18 **PART II. IMPLEMENTATION FUNDING**

19 **SECTION 2.(a)** Department Funding. – The sum of two million dollars (\$2,000,000)
20 in nonrecurring funds for the 2023-2024 fiscal year is appropriated from the General Fund to the
21 Department of Environmental Quality (Department) to implement the requirements of this act.
22 These funds shall be deposited into the PFAS Public Water Protection Fund, which is established
23 in the Department as a special fund. The Department may establish time-limited positions with
24 the funds appropriated by this subsection.

25 **SECTION 2.(b)** Report. – The Department shall report to the Joint Legislative
26 Oversight Committee on Agriculture and Natural and Economic Resources no later than
27 December 15, 2023, and annually thereafter, on their use of the funds appropriated by this act,
28 including abatement orders issued by the Secretary of Environmental Quality using the authority
29 conferred by G.S. 130A-19.1, as enacted by Section 1 of this act.
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31 **PART III. EFFECTIVE DATE**

32 **SECTION 3.** Section 2 of this act becomes effective July 1, 2023. Section 1 of this
33 act is effective when it becomes law and applies retroactively to discharges from responsible
34 parties occurring on or after January 1, 2017. The remainder of this act is effective when it
35 becomes law.
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