

1.1 **Senator Hawj from the Committee on Environment, Climate, and Legacy, to which**
1.2 **was referred**

1.3 **S.F. No. 776:** A bill for an act relating to environment; prohibiting the use of certain
1.4 firefighting foam; allowing certain exemptions; amending Minnesota Statutes 2022, section
1.5 325F.072, subdivisions 1, 3.

1.6 Reports the same back with the recommendation that the bill be amended as follows:

1.7 Page 2, after line 24, insert:

1.8 "(c) This subdivision does not apply to the manufacture, sale, distribution, or use of class
1.9 B firefighting foam for purposes of use at an airport, as defined under section 360.013,
1.10 subdivision 39, until the state fire marshal makes a determination that:

1.11 (1) the Federal Aviation Administration has provided policy guidance on the transition
1.12 to fluorine-free firefighting foam; and

1.13 (2) a fluorine-free firefighting foam product is included in the Federal Aviation
1.14 Administration's Qualified Product Database.

1.15 (d) Until the state fire marshal makes a determination under paragraph (c), the operator
1.16 of an airport using class B firefighting foam containing PFAS chemicals must, on or before
1.17 December 31 of each calendar year, submit a report to the state fire marshal regarding the
1.18 status of the airport's conversion to class B firefighting foam products without intentionally
1.19 added PFAS, the disposal of class B firefighting foam products with intentionally added
1.20 PFAS, and an assessment of the factors listed in paragraph (c) as applied to the airport."

1.21 Page 2, after line 25, insert:

1.22 "Sec. 3. **FIREFIGHTER TURNOUT GEAR; REPORT.**

1.23 (a) The commissioner of the Pollution Control Agency, in cooperation with the
1.24 commissioner of health, must submit a report to the chairs and ranking minority members
1.25 of the legislative committees and divisions with jurisdiction over the environment and
1.26 natural resources regarding perfluoroalkyl and polyfluoroalkyl substances (PFAS) in turnout
1.27 gear by January 15, 2024. The report must include:

1.28 (1) current turnout gear requirements and options for eliminating or reducing PFAS in
1.29 turnout gear;

1.30 (2) current turnout gear disposal methods and recommendations for future disposal to
1.31 prevent PFAS contamination; and

1.32 (3) recommendations and protocols for PFAS biomonitoring in firefighters, including
1.33 a process for allowing firefighters to voluntarily register for biomonitoring.

2.1 (b) For the purposes of this section, "turnout gear" is the personal protective equipment
2.2 (PPE) used by firefighters.

2.3 **Sec. 4. TEMPORARY EXEMPTION FOR TERMINALS AND OIL REFINERIES.**

2.4 Subdivision 1. **Temporary exemption.** Minnesota Statutes, section 325F.072, subdivision
2.5 3, does not apply to the manufacture, sale, distribution, or use of class B firefighting foam
2.6 for the purposes of use at a terminal or oil refinery until January 1, 2026.

2.7 Subd. 2. **Extension; waiver.** (a) A person who operates a terminal or oil refinery may
2.8 apply to the state fire marshal for a waiver to extend the exemption under subdivision 1,
2.9 beyond January 1, 2026, as provided in this subdivision.

2.10 (b) The state fire marshal may grant a waiver to extend the exemption under subdivision
2.11 1, for a specific use if the applicant provides all of the following:

2.12 (1) clear and convincing evidence that there is no commercially available replacement
2.13 that does not contain intentionally added PFAS chemicals and that is capable of suppressing
2.14 fire for that specific use;

2.15 (2) information on the amount of firefighting foam containing intentionally added PFAS
2.16 chemicals stored, used, or released on-site on an annual basis;

2.17 (3) a detailed plan, with timelines, for the operator of the terminal or oil refinery to
2.18 transition to firefighting foam that does not contain intentionally added PFAS chemicals
2.19 for that specific use; and

2.20 (4) a plan for meeting the requirements under subdivision 3.

2.21 (c) The state fire marshal must ensure there is an opportunity for public comment during
2.22 the waiver process. The state fire marshal must consider both information provided by the
2.23 applicant and information provided through public comment when making a decision on
2.24 whether to grant a waiver. The term of a waiver must not exceed two years. The state fire
2.25 marshal must not grant a waiver for a specific use if any other terminal or oil refinery is
2.26 known to have transitioned to commercially available class B firefighting foam that does
2.27 not contain intentionally added PFAS chemicals for that specific use. All waivers must
2.28 expire by January 1, 2028. A person that anticipates applying for a waiver for a terminal or
2.29 oil refinery must submit a notice of intent to the state fire marshal by January 1, 2025, in
2.30 order to be considered for a waiver beyond January 1, 2026. The state fire marshal must
2.31 notify the waiver applicant of a decision within six months of the waiver submission date.

3.1 (d) The state fire marshal must provide an applicant for a waiver under this subdivision
 3.2 an opportunity to:

3.3 (1) correct deficiencies when applying for a waiver; and

3.4 (2) provide evidence to dispute a determination that another terminal or oil refinery is
 3.5 known to have transitioned to commercially available class B firefighting foam that does
 3.6 not contain intentionally added PFAS chemicals for that specific use, including evidence
 3.7 that the specific use is different.

3.8 Subd. 3. Use requirements. (a) A person that uses class B firefighting foam containing
 3.9 intentionally added PFAS chemicals under this section must:

3.10 (1) implement tactics that have been demonstrated to prevent release directly to the
 3.11 environment, such as to unsealed ground, soakage pits, waterways, or uncontrolled drains;

3.12 (2) attempt to fully contain all fire foams with PFAS on-site using demonstrated practices
 3.13 designed to contain all PFAS releases;

3.14 (3) implement containment measures such as bunds and ponds that are controlled,
 3.15 impervious to PFAS chemicals, and do not allow firewater, wastewater, runoff, and other
 3.16 wastes to be released to the environment, such as to soils, groundwater, waterways, or
 3.17 stormwater; and

3.18 (4) dispose of all firewater, wastewater, runoff, impacted soils, and other wastes in a
 3.19 way that prevents releases to the environment.

3.20 (b) A terminal or oil refinery that has received a waiver under this section may provide
 3.21 and use class B firefighting foam containing intentionally added PFAS chemicals in the
 3.22 form of mutual aid to another terminal or oil refinery at the request of authorities only if
 3.23 the other terminal or oil refinery also has a waiver.

3.24 **EFFECTIVE DATE.** This section is effective January 1, 2024.

3.25 Sec. 5. **APPROPRIATION; BIOMONITORING.**

3.26 \$500,000 in fiscal year 2024 is appropriated from the general fund to the commissioner
 3.27 of the Pollution Control Agency for developing and implementing firefighter biomonitoring
 3.28 protocols under section 3. Of this amount, up to \$250,000 may be transferred to the
 3.29 commissioner of health for biomonitoring of firefighters. This is a onetime appropriation
 3.30 and is available until June 30, 2025."


3.31 Amend the title as follows:

4.1 Page 1, line 2, after "foam;" insert "appropriating money;"

4.2 Amend the title numbers accordingly

4.3 And when so amended the bill do pass and be re-referred to the Committee on Commerce

4.4 and Consumer Protection. Amendments adopted. Report adopted.

4.5 .....
4.6 (Committee Chair)

4.7 March 3, 2023.....
4.8 (Date of Committee recommendation)