

AMENDED IN ASSEMBLY MARCH 21, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 2408

Introduced by Assembly Member Haney

February 12, 2024

An act to *amend Section 13029 of the Health and Safety Code, and to amend Section 147.4 of the Labor Code, relating to occupational safety.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2408, as amended, Haney. ~~Department of Industrial Relations.~~ *Firefighter personal protective equipment: perfluoroalkyl and polyfluoroalkyl substances.*

Existing law requires any person that sells firefighter personal protective equipment to provide written notice to the purchaser if the equipment contains intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS). Existing law requires the seller to retain a copy of the written notice and provide the notice to specified law enforcement entities, including the Attorney General, upon request. Existing law makes a violation of those provisions subject to a penalty of up to \$5,000 for a first violation and up to \$10,000 for a subsequent violation.

This bill, commencing July 1, 2026, would prohibit a person from manufacturing, knowingly selling, offering for sale, distributing for sale, distributing for use, or using in this state firefighter personal protective equipment containing PFAS. The bill would make a violation of this provision subject to the civil penalty provisions described above. The bill would specify that an individual firefighter shall not be personally liable for payment of the civil penalty.

Existing law requires the Occupational Safety and Health Standards Board, in consultation with the Department of Industrial Relations, every 5 years, as specified, to review all revisions to National Fire Protection Association (NFPA) standards pertaining to personal protective equipment covered by specified safety orders. If the review finds the revisions provide a greater degree of personal protection than the safety orders, existing law requires the board to consider modifying existing safety orders and to render a decision regarding changing safety orders or other standards and regulations to maintain alignment of the safety orders with the NFPA standards no later than July 1 of the subsequent year.

This bill would require the board, in consultation with the department, within one year of the NFPA updating a specified standard on protective ensemble for structural firefighting and proximity firefighting to include PFAS-free turnout gear, to update the applicable safety orders, or other standards or regulations, to maintain alignment with the NFPA standard.

The bill would state related findings and declarations of the Legislature.

~~Existing law requires the Department of Industrial Relations, among other things, to convene an advisory committee to evaluate whether changes are needed to align specified regulations with the applicable and most recently adopted standards of the National Fire Protection Association. Existing law requires the committee to be composed of parties in both management and labor, represent a cross section of the fire protection industry and community, and be competent and knowledgeable regarding personal protective clothing and equipment for firefighters and firefighting practices generally.~~

~~This bill would make a nonsubstantive change to the provisions described above that require the department to convene an advisory committee.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *Decades of scientific research have demonstrated the toxic*
- 4 *and carcinogenic nature of perfluoroalkyl and polyfluoroalkyl*

1 substances, known as PFAS, which are a family of synthetic
2 chemicals known as “forever chemicals” due to their persistent
3 nature in both the environment and the human body.

4 (b) Research has linked exposure to and accumulation of PFAS
5 to development of tumors in the liver, reproductive organs, and
6 pancreas.

7 (c) In November 2023, the International Agency for Research
8 on Cancer declared perfluorooctanoic acid, which was been found
9 in firefighter turnout gear, to be a Group 1 known human
10 carcinogen.

11 (d) In addition to other industrial and commercial uses, PFAS
12 is utilized in the personal protective equipment (PPE) of
13 firefighters, specifically within the inner moisture barrier layer of
14 the three-layer fabric, in order to pass a stringent light-resistance
15 test to meet Section 8.62 of the National Fire Protection
16 Association Standard 1971.

17 (e) Firefighting is an inherently dangerous profession that brings
18 repeated exposures to numerous toxic substances, including
19 benzene, asbestos, and hexavalent chromium. These exposures
20 lead to a higher rate of cancer among firefighters than among the
21 general population.

22 (f) The cancer risk for firefighters is so high that the
23 International Agency for Research on Cancer has declared the
24 profession of firefighting itself to be a Group 1 carcinogen that is
25 known to cause cancer and be harmful to the health of humans.

26 (g) Fire agencies throughout the country have worked to reduce
27 levels of occupational exposure to harmful substances, including
28 PFAS, through policies related to, among other things, clean cabs,
29 strict gear cleaning, the use of self-contained breathing
30 apparatuses during overhaul, and eliminating the use of aqueous
31 film forming foam (AFFF) that contains PFAS.

32 (h) California restricted the use of AFFF, also known as Class
33 B firefighting foam, containing PFAS through the enactment of
34 Chapter 308 of the Statutes of 2020 (Allen), which phases out their
35 usage in both municipal and industrial firefighting settings in favor
36 of non-PFAS alternatives.

37 SEC. 2. Section 13029 of the Health and Safety Code is
38 amended to read:

39 13029. (a) For purposes of this section, the following
40 definitions apply:

1 (1) “Firefighter personal protective equipment” means personal
2 protective equipment covered by the general industry safety orders
3 in Sections 3403 to 3411, inclusive, of Title 8 of the California
4 Code of Regulations.

5 (2) “Manufacturer” means a person that manufactures, imports,
6 or distributes domestically firefighter personal protective
7 equipment.

8 (3) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS”
9 means a class of fluorinated organic chemicals containing at least
10 one fully fluorinated carbon atom.

11 (4) “Person” has the same meaning as defined in Section 19 and
12 includes a public entity.

13 (5) “Public entity” has the same meaning specified in Section
14 13050.1.

15 (b) (1) Commencing January 1, 2022, any person, including a
16 manufacturer, that sells firefighter personal protective equipment
17 to any person shall provide a written notice to the purchaser at the
18 time of sale if the firefighter personal protective equipment contains
19 intentionally added PFAS chemicals. The written notice shall
20 include a statement that the firefighter personal protective
21 equipment contains PFAS chemicals and the reason that PFAS
22 chemicals are added to the equipment.

23 (2) The person selling firefighter personal protective equipment
24 and the purchaser of the equipment shall retain a copy of the written
25 notice on file for at least three years from the date of the
26 transaction. Within 60 days of a request by the Attorney General,
27 a city attorney, a county counsel, or a district attorney, the seller
28 or purchaser of firefighter personal protective equipment shall
29 furnish to the requesting entity the written notice, or a copy of the
30 written notice, and associated sales documentation.

31 (c) The Attorney General, a city attorney, a county counsel, or
32 a district attorney may request from a manufacturer, and a
33 manufacturer shall provide, a certificate of compliance that certifies
34 that the manufacturer is in compliance with subdivision (b) for
35 that manufacturer’s firefighter personal protective equipment.

36 (d) *Commencing July 1, 2026, any person, including a*
37 *manufacturer, shall not manufacture or knowingly sell, offer for*
38 *sale, distribute for sale, or distribute for use in this state, and no*
39 *person shall use in this state, firefighter personal protective*
40 *equipment containing intentionally added PFAS chemicals.*

1 ~~(d)~~

2 (e) (1) Except as provided in paragraph (2), and upon an action
3 brought by the Attorney General, a city attorney, a county counsel,
4 or a district attorney, a person that violates subdivision ~~(b)~~ or ~~(e)~~
5 (b), (c), or (d) shall be liable for a civil penalty not to exceed five
6 thousand dollars (\$5,000) for a first violation, and not to exceed
7 ten thousand dollars (\$10,000) for each subsequent violation.

8 (2) An individual firefighter shall not be personally liable for
9 payment of the civil penalty imposed pursuant to paragraph (1).

10 (3) This section does not impair or impede any other rights,
11 causes of action, claims, or defenses available under any other
12 law. The remedies provided in this section are cumulative with
13 any other remedies available under any other law.

14 **SECTION 1.**

15 *SEC. 3.* Section 147.4 of the Labor Code is amended to read:

16 147.4. (a) By January 1, 2016, the department shall convene
17 an advisory committee to evaluate whether changes are needed to
18 align the general industry safety orders in Sections 3403 to 3411,
19 inclusive, of Article 10.1 (commencing with Section 3401) of
20 Group 2 of Subchapter 7 of Chapter 4 of Article 8 of Division 1
21 of Title 8 of the California Code of Regulations with the applicable
22 and most recently adopted standards of the National Fire Protection
23 Association. The committee shall be composed of parties in both
24 management and labor, represent a cross section of the fire
25 protection industry and community, and be competent and
26 knowledgeable regarding personal protective clothing and
27 equipment for firefighters and firefighting practices generally.

28 (b) By July 1, 2016, the advisory committee shall present its
29 findings and recommendations for consideration by the board. No
30 later than July 1, 2017, the board shall render a decision regarding
31 the adoption of changes to the general industry safety orders in
32 Sections 3403 to 3411, inclusive, of Article 10.1 (commencing
33 with Section 3401) of Group 2 of Subchapter 7 of Chapter 4 of
34 Article 8 of Division 1 of Title 8 of the California Code of
35 Regulations, or other applicable standards and regulations, in order
36 to maintain alignment with the applicable National Fire Protection
37 Association standards.

38 (c) Beginning July 1, 2018, and every five years thereafter, the
39 board, in consultation with the department, shall complete a
40 comprehensive review of all revisions to National Fire Protection

1 Association standards pertaining to personal protective equipment
2 covered by the general industry safety orders in Sections 3403 to
3 3411, inclusive, of Article 10.1 (commencing with Section 3401)
4 of Group 2 of Subchapter 7 of Chapter 4 of Article 8 of Division
5 1 of Title 8 of the California Code of Regulations. If the review
6 finds that the revisions to applicable National Fire Protection
7 Association standards provide a greater degree of personal
8 protection than the safety orders, the board shall consider
9 modifying existing safety orders and shall render a decision
10 regarding the adoption of necessary changes to safety orders, or
11 other applicable standards and regulations, no later than July 1 of
12 the subsequent year, in order to maintain alignment of the safety
13 orders with the applicable National Fire Protection Association
14 standards.

15 *(d) (1) Notwithstanding subdivision (c), within one year of the*
16 *National Fire Protection Association updating the NFPA 1971*
17 *Standard on Protective Ensembles for Structural Fire Fighting*
18 *and Proximity Fire Fighting to include PFAS-free turnout gear,*
19 *the board, in consultation with the department, shall update the*
20 *applicable safety orders, or other applicable standards and*
21 *regulations, to maintain alignment of the safety orders with the*
22 *National Fire Protection Association standard.*

23 *(2) For purposes of this section, "PFAS" means perfluoroalkyl*
24 *and polyfluoroalkyl substances.*