

Date of Hearing: April 17, 2024

ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT

Liz Ortega, Chair

AB 2408 (Haney) – As Amended March 21, 2024

**SUBJECT:** Firefighter personal protective equipment: perfluoroalkyl and polyfluoroalkyl substances

**SUMMARY:** Prohibits, beginning July 1, 2026, any person from manufacturing, selling, offering for sale, distributing for use in this state, or using in this state, firefighter personal protective equipment (PPE) containing intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS). Specifically, **this bill:**

- 1) Makes findings and declarations related to the toxic and carcinogenic nature of PFAS and the risk of exposure to and accumulation of these substances.
- 2) Prohibits, beginning July 1, 2026, any person from manufacturing, knowingly selling, offering for sale, distributing for sale, distributing for use, or using in this state, firefighter PPE containing PFAS.
- 3) Makes a violation of 2) above subject to a penalty of up to \$5,000 for a first violation and up to \$10,000 for a subsequent violation.
- 4) Requires the Occupational Safety and Health Standards Board (OSHSB), in consultation with the Department of Industrial Relations (DIR), within one year of the National Fire Protection Association (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.

**EXISTING LAW:**

- 1) Requires the OSHSB, in consultation with DIR, every 5 years, as specified, to review all revisions to NFPA standards pertaining to personal protective equipment covered by specified safety orders. Labor Code § 147.4(c).
- 2) Requires that, if the review described in 1) above finds the revisions provide a greater degree of personal protection than the safety orders, OSHSB must consider modifying existing safety orders and 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. Labor Code § 147.4(c).
- 3) Requires any person that sells firefighter personal protective equipment to provide written notice to the purchaser if the equipment contains intentionally added PFAS, and 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. Health and Safety Code § 13029(b).

- 4) Makes a violation of 3) above subject to a penalty of up to \$5,000 for a first violation and up to \$10,000 for a subsequent violation. Health and Safety Code § 13029(d)(1).

**FISCAL EFFECT:** Unknown

**COMMENTS:** Cancer is one of the leading causes of death among firefighters nationwide. A study by the Centers for Disease Control and Prevention and the National Institute for Occupational Safety & Health found that firefighters have higher risks of certain types of cancer than the general population, and that firefighters have a higher rate of cancer-related deaths.<sup>1</sup> According to the International Association of Fire Fighters, 66 percent of firefighter deaths between 2002 and 2019 were caused by cancer. This elevated risk is due to a number of factors, including exposure to byproducts of combustion that are known carcinogens, persistent compounds absorbed by the body, and particulate matter released by burning materials or debris.

Additionally, firefighter turnout gear – the PPE used by firefighters, complete with their fire kit and incident gear – has been found to contain significant levels of cancer-causing PFAS. In turnout gear, PFAS are mainly concentrated in the pants and jackets within the inner moisture barrier layer, found between the outer shell and the inner thermal liner of the composite material.<sup>2</sup>

PFAS are a family of synthetic chemicals that have been found to be harmful to both human health and the environment. Considered “forever chemicals” because they are long-lasting chemicals that break down very slowly over time, PFAS are released into the air, water, and soil in areas where they are stored and used and can be absorbed into the human body through inhalation, drinking water, or through contact.

The NFPA is the entity in charge of setting the performance, durability and safety standards for turnout gear. Although manufacturers of PPE have largely been able to produce gear able to meet existing NFPA standards with safe alternatives to PFAS, one of the standards for firefighter turnout gear involves a light degradation resistance test, which uses ultraviolet (UV) light to test the moisture resistance of the gear to make sure it can hold up in the field. Currently, this test can only be passed with the addition of PFAS materials to the turnout gear. However, given that the materials inside the fabric of firefighter turnout gear are never exposed to direct sunlight, the upcoming revision of the NFPA standard, expected to take place by summer of 2024, proposes removing the UV light test.

This bill would bring California into conformance with the new federal standard once approved, by banning PFAS from being used in firefighter gear and directing the OSHSB to revise its regulations to meet the latest safety standard within a year after it has been updated.

According to the author, “Twenty years ago heart disease was the biggest threat to firefighter health. Today, cancer has replaced heart disease as the biggest killer of firefighters. While firefighting is an inherently dangerous profession, it is critical for the health and safety of California’s fire fighters that all unnecessary cancer causing exposures are eliminated.

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<sup>1</sup> National Institute for Occupational Safety and Health. (2016). Findings from a study of cancer among U.S. fire fighters.

<sup>2</sup> Maizel AC, et al. (2023) Per- and Polyfluoroalkyl Substances in New Firefighter Turnout Gear Textiles. (National Institute of Standards and Technology, Gaithersburg, MD), NIST Technical Note (TN) NIST TN 2248. <https://doi.org/10.6028/NIST.TN.2248>

Firefighters put their lives at risk every day on the front lines saving lives, responding to emergencies and taking care of the vulnerable. We have an obligation to protect them – and that means making sure they are not exposed to cancer-causing chemicals in the very equipment designed to keep them safe.”

Regarding the bill’s impact on underserved and marginalized communities, the author adds that “This bill would not negatively disproportionately impact a group. This bill would positively impact fire fighters to ensure that PFAS, a cancer-causing chemical, is no longer used in the firefighter personal protective equipment. Firefighters have an increased overall risk of cancer incidence and mortality compared to the general population. Studies have shown that Black and Hispanic fire fighters were found to have increased risks for more types of cancer than white fire fighters (specifically, non-Hodgkin lymphoma, chronic lymphocytic leukemia, chronic myeloid leukemia and cancers of the tongue, testis and bladder). Protecting these firefighters would reduce the risk of cancer these groups would encounter.”

### **Committee Comments**

As noted in the Environmental Safety and Toxic Materials Committee analysis, “The NFPA may adopt a PFAS free standard for firefighter PPE this year, however, there is always the chance that this does not happen. If not, then the date in the bill may be challenging to meet. Therefore, as the bill moves through the legislative process, the author may wish to monitor the NFPA process to ensure there is time for the new PFAS firefighter PPE to be distributed in California.”

### **Arguments in Support**

California Professional Firefighters, sponsor of the bill, states “The proposed elimination of the light degradation resistance test from the upcoming revision of the NPFA standard acknowledges the fact that an overly stringent requirement for light resistance is not a necessary safety feature for a material that makes up the interior of the fabric composite and will never be exposed to direct light. As meeting the requirements of this test is the only reason that PFAS is still included in turnout gear, once that test has been removed, we as a state owe it to the men and women who put their lives on the line for our communities every day to move quickly to eliminate this threat.”

### **Arguments in Opposition**

None on file.

### **Prior and Related Legislation**

SB 903 (Skinner) of 2024 prohibits, commencing January 1, 2030, a person from distributing, selling, or offering for sale in the state a product that contains intentionally added PFAS unless the use of PFAS is currently unavoidable, as defined. Authorizes the Department of Toxic Substances Control to establish regulations to administer the prohibition. This bill is in the Senate Judiciary Committee.

AB 2515 (Papan) of 2024 prohibits a person from manufacturing, distributing, selling, or offering for sale a menstrual product that contains regulated PFAS. This bill is in the Assembly Judiciary Committee.

AB 1817 (Ting), Chapter 762, Statutes of 2022 prohibited, beginning January 1, 2025, a person from manufacturing, distributing, selling, or offering for sale in the state a new textile article, as defined, that contains regulated PFAS.

SB 1044 (Allen), Chapter 308, Statutes of 2020 prohibited the manufacture, sale, distribution, and use of class B firefighting foam containing PFAS by January 1, 2022, with some exceptions, and required notification of the presence of PFAS in the protective equipment of firefighters.

AB 2146 (Skinner), Chapter 811, Statutes of 2014 required DIR, by January 1, 2016, to convene an advisory committee to evaluate whether changes are needed to align industry safety order with the applicable and most recently promulgated standards of the NFPA.

**REGISTERED SUPPORT / OPPOSITION:****Support**

California Professional Firefighters (Sponsor)  
Breast Cancer Prevention Partners  
California Labor Federation  
Clean Water Action  
Cleaneart4kids.org  
Natural Resources Defense Council

**Opposition**

None on file.

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