

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 864
Committee Substitute Favorable 6/11/24

Short Title: PFAS Pollution and Polluter Liability.

(Public)

Sponsors:

Referred to:

April 26, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT THE CITIZENS OF NORTH CAROLINA FROM DRINKING
3 WATER CONTAMINATED BY GENX AND OTHER PFAS COMPOUNDS.
4 The General Assembly of North Carolina enacts:

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6 **PART I. ABATEMENT OF PFAS EXCEEDANCES IN PUBLIC WATER SYSTEMS**

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

9 **"§ 130A-19.1. Abatement of PFAS exceedances.**

10 (a) The following definitions apply in this section:

11 (1) Permissible concentration level. – For an individual per- and polyfluoroalkyl
12 substances (PFAS) compound, or combined PFAS compounds, any maximum
13 contaminant level that may be established by the United States Environmental
14 Protection Agency for the PFAS compound in question, or combined
15 compounds.

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

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

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

28 (b) The Secretary may order a responsible party to pay a public water system any actual
29 and necessary costs incurred by the public water system to remove, correct, or abate any adverse
30 effects upon the water supply resulting from contamination for which the person is responsible
31 if the Secretary determines all of the following:

32 (1) The person is a PFAS manufacturer.

33 (2) The PFAS manufacturer discharged or released PFAS into the environment
34 that has caused or contributed to the presence of PFAS in the public water
35 system.



1 (3) The concentration of PFAS in the public water system, including any raw
2 water intake, regardless of the system's raw water source, including surface
3 water, public well, or pumped groundwater storage, has exceeded a
4 permissible concentration level.

5 Such costs shall include costs to procure, implement, maintain, and operate technology to
6 reduce PFAS concentrations in finished drinking water below the permissible concentration
7 level. If a responsible party refuses to comply with an order, the Secretary may institute an action
8 in the superior court of the county where the public water system exists to enforce the order.

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

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

19 (e) The remedy under this section is in addition to those provided by existing statutory
20 and common law."

21 **PART II. IMPLEMENTATION FUNDING**

22 **SECTION 2.(a)** Department Funding. – The sum of three hundred thousand dollars
23 (\$300,000) in nonrecurring funds for the 2024-2025 fiscal year is appropriated from the General
24 Fund to the Department of Environmental Quality (Department) to implement the requirements
25 of this act. These funds shall be deposited into the PFAS Public Water Protection Fund, which is
26 established in the Department as a special fund. The Department may establish time-limited
27 positions with the funds appropriated by this subsection.
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29 **SECTION 2.(b)** Report. – The Department shall report to the Joint Legislative
30 Oversight Committee on Agriculture and Natural and Economic Resources no later than
31 December 15, 2024, and annually thereafter, on their use of the funds appropriated by this act,
32 including abatement orders issued by the Secretary of Environmental Quality using the authority
33 conferred by G.S. 130A-19.1, as enacted by Section 1 of this act.
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35 **PART III. EFFECTIVE DATE**

36 **SECTION 3.** Section 2 of this act becomes effective September 1, 2024. Section 1
37 of this act is effective when it becomes law and applies retroactively to costs incurred by a public
38 water system on or after January 1, 2017, to remove, correct, or abate any adverse effects upon a
39 water supply resulting from contamination, irrespective of when a maximum contaminant level
40 was established by the United States Environmental Protection Agency for the PFAS compound
41 in question. The remainder of this act is effective when it becomes law.