

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H.B. 864
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30316-RIa-11

Short Title: PFAS Pollution and Polluter Liability.

(Public)

Sponsors: Representative Davis.

Referred to:

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. – Means both of the following:

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

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

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

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

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

30 (b) If the Secretary determines that the concentration of any PFAS in a public water
31 system, including any raw water intake, regardless of the system's raw water source, including
32 surface water, public well, or pumped groundwater storage, has exceeded a permissible
33 concentration level, the Secretary may order the responsible party to pay the public water system
34 any actual and necessary costs incurred by the public water system to remove, correct, or abate
35 any adverse effects upon the water supply resulting from the contamination for which the person
36 is responsible. Such costs shall include costs to procure, implement, maintain, and operate



1 technology to reduce PFAS concentrations in finished drinking water below the permissible
2 concentration level. If a responsible party refuses to comply with an order, the Secretary may
3 institute an action in the superior court of the county where the public water system exists to
4 enforce the order. The action shall be calendared for trial within 60 days after service of the
5 complaint upon the defendant.

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

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

16 17 **PART II. IMPLEMENTATION FUNDING**

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

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

29 30 **PART III. EFFECTIVE DATE**

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