

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE BILL 1095

Short Title: PFAS Pollution and Polluter Liability. (Public)

Sponsors: Representatives Davis, Iler, Miller, and Reives (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Judiciary 1, if favorable, Rules, Calendar, and Operations of the House

May 27, 2022

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:

5  
6 **PART I. AUTHORIZE THE ESTABLISHMENT OF PFAS MAXIMUM**  
7 **CONTAMINANT LEVELS**

8 **SECTION 1.(a)** Article 10 of Chapter 130A of the General Statutes is amended by  
9 adding a new section to read:

10 "**§ 130A-315.1. Adoption of maximum contaminant levels for PFAS compounds.**

11 (a) Notwithstanding authority given to the Commission for Public Health to adopt  
12 maximum contaminant levels (MCLs) for drinking water contaminants under this Article, the  
13 Environmental Management Commission is authorized to adopt a maximum contaminant level,  
14 enforceable by the Secretary, which is acceptable for human consumption for one or more  
15 per- and polyfluoroalkyl substances (PFAS) compounds.

16 (1) Any such maximum contaminant level shall be set at a level that is as close as  
17 possible to the corresponding maximum contaminant level goal recommended  
18 by the Department pursuant to subsection (b) of this section while also being  
19 technologically and economically feasible.

20 (2) In determining whether the maximum contaminant level is economically  
21 feasible, the Environmental Management Commission may consider all of the  
22 following factors:

23 a. The Secretary's authority in G.S. 130A-19.1 to order a responsible  
24 party to pay costs of a public water supply to procure, implement,  
25 maintain, and operate technology to reduce PFAS concentrations in  
26 finished drinking water below permissible concentration levels, as  
27 defined in that section.

28 b. The costs of compliance to public water systems, customers, and other  
29 affected parties.

30 (3) The Environmental Management Commission shall specify the compliance  
31 date for any maximum contaminant level adopted pursuant to this section.

32 (4) For purposes of this section, the term "technologically feasible" means  
33 capable of accomplishment as evidenced by prior success under similar  
34 circumstances.



1       **(b)** The Department, in consultation with the Department of Health and Human Services,  
2 may recommend a maximum contaminant level goal based upon an estimate of the level of the  
3 contaminant in drinking water below which there is no known or expected risk to human health,  
4 provided that sufficient scientific evidence exists.

5           **(1)** The recommended maximum contaminant level goal shall be no less stringent  
6 than the following:

7           **a.** The systemic threshold concentration calculated as follows:  
8 [Reference Dose (mg/kg-day) x adult body weight (kg) x Relative  
9 Source Contribution] / [average water consumption (L/day)].

10          **b.** With respect to carcinogenic compounds, the concentration that  
11 corresponds to an incremental lifetime cancer risk of 1x10<sup>-6</sup>.

12          **(2)** The following references, in order of preference, shall be used in establishing  
13 the Reference Doses which correspond to levels described in subdivision (1)  
14 of this subsection:

15          **a.** Integrated Risk Information System (U.S. EPA).

16          **b.** Health Advisories (U.S. EPA Office of Drinking Water).

17          **c.** Other health risk assessment data published by the U.S. EPA.

18          **d.** Other relevant, published health risk assessment data, and  
19 scientifically valid peer-review published toxicological data, including  
20 research from the Collaboratory and other academic institutions.

21          **(3)** The following references, in order of preference, shall be used in establishing  
22 the health constants (adult body weight, relative source contribution, and  
23 average water consumption) which correspond to levels described in  
24 subdivision (1) of this subsection:

25          **a.** EPA published values for establishing maximum contaminant levels.

26          **b.** EPA published values for establishing water quality standards.

27          **c.** Values utilized by the Environmental Management Commission or the  
28 Department for establishing water quality standards in 15A NCAC  
29 02B .0200."

30       **SECTION 1.(b)** As provided in G.S. 150B-2(8a)h., scientific standards and  
31 procedures are exempt from the requirements of Article 2A of Chapter 150B of the General  
32 Statutes. Further, as scientific standards and procedures for the Department's development of  
33 MCLs for PFAS are set forth in G.S. 130A-315.1, as enacted by subsection (a) of this section, in  
34 accordance with G.S. 150B-2(8a)h., such standards and procedures are not required to be adopted  
35 as rules pursuant to G.S. 150B-2(8a)d.

## 36 37 **PART II. ABATEMENT OF PFAS MCL EXCEEDANCES IN PUBLIC WATER** 38 **SYSTEMS**

39       **SECTION 2.** Article 1 of Chapter 130A of the General Statutes is amended by  
40 adding a new section to read:

### 41 **"§ 130A-19.1. Abatement of PFAS exceedances.**

42          **(a)** The following definitions apply in this section:

43           **(1)** Permissible concentration level. – Both of the following:

44           **a.** For an individual per- and polyfluoroalkyl substances (PFAS)  
45 compound, the lesser of: (i) 10 parts per trillion (ppt); or (ii) any  
46 maximum contaminant level established for the PFAS compound in  
47 question.

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

49          **(2)** Responsible party. – A manufacturer of PFAS whose discharge or release of  
50 PFAS into the environment has caused or contributed to the presence of PFAS  
51 in a public water system as described in subsection (b) of this section.

1       **(b)** If the Secretary determines that the concentration of any PFAS in a public water  
2 system, including any raw water intake, regardless of the system's raw water source, including  
3 surface water, public well, or pumped groundwater storage, has exceeded a permissible  
4 concentration level, the Secretary may order the responsible party to pay the public water system  
5 any actual and necessary costs incurred by the public water system to remove, correct, or abate  
6 any adverse effects upon the water supply resulting from the contamination for which the person  
7 is responsible. Such costs shall include costs to procure, implement, maintain, and operate  
8 technology to reduce PFAS concentrations in finished drinking water below the permissible  
9 concentration level. If a responsible party refuses to comply with an order, the Secretary may  
10 institute an action in the superior court of the county where the public water system exists to  
11 enforce the order. The action shall be calendared for trial within 60 days after service of the  
12 complaint upon the defendant.

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

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

### 23 24 **PART III. IMPLEMENTATION FUNDING**

25       **SECTION 3.(a)** Department Funding. – The sum of two million dollars (\$2,000,000)  
26 in nonrecurring funds for the 2022-2023 fiscal year is appropriated from the General Fund to the  
27 Department of Environmental Quality to implement the requirements of this act. These funds  
28 shall be deposited into the PFAS Public Water Protection Fund, which is established in the  
29 Department as a special fund. The Department may establish time-limited positions with the  
30 funds appropriated by this subsection.

31       **SECTION 3.(b)** Collaboratory Funding. – The sum of two million dollars  
32 (\$2,000,000) in nonrecurring funds is appropriated from the General Fund to the Board of  
33 Governors of The University of North Carolina to be allocated to the University of North  
34 Carolina at Chapel Hill for the North Carolina Collaboratory (Collaboratory). The Collaboratory  
35 shall, upon request from the Secretary, conduct research and analysis to provide scientific and  
36 economic support for maximum contaminant levels for PFAS established under  
37 G.S. 130A-315.1, as enacted by Section 1 of this act. The Collaboratory and the Department shall  
38 jointly develop a work plan for the support to be provided by the Collaboratory in implementing  
39 this act.

40       **SECTION 3.(c)** Report. – The Department and the Collaboratory shall jointly report  
41 to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic  
42 Resources no later than December 15, 2022, and annually thereafter on their use of the funds  
43 appropriated by this act, including the adoption of maximum contaminant levels for PFAS by the  
44 Department, supporting research and analysis provided by the Collaboratory pursuant to the work  
45 plan required by subsection (b) of this section, and abatement orders issued by the Secretary of  
46 Environmental Quality using the authority conferred by G.S. 130A-19.1, as enacted by Section  
47 2 of this act.

### 48 49 **PART IV. EFFECTIVE DATE**

50       **SECTION 4.** Section 3 of this act becomes effective July 1, 2022. Section 2 of this  
51 act is effective when it becomes law and applies retroactively to discharges from responsible

1 parties occurring on or after January 1, 2017. The remainder of this act is effective when it  
2 becomes law.