

By: Kerwin

H.B. No. 290

A BILL TO BE ENTITLED

AN ACT

relating to the production, sale, and use of certain agricultural products containing perfluoroalkyl and polyfluoroalkyl substances (PFAS) in Johnson County, Texas; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 63.001, Agriculture Code, is amended by adding Subsections (13-a) and (15-a) to read as follows:

(13-a) "Perfluoroalkyl and polyfluoroalkyl substances" means any member of the class of manufactured fluorinated chemicals containing at least one fully fluorinated carbon atom.

(15-a) "Sewage sludge" means any solid, semisolid, or liquid residue generated during treatment of sewage or septage at a municipal, commercial, or industrial wastewater treatment facility.

SECTION 2. Section 63.002, Agriculture Code, is amended by amending Subsection (a) to read as follows:

Sec. 63.002. COMMERCIAL FERTILIZER. (a) Except as otherwise provided by this section, a substance is a commercial fertilizer subject to this chapter if it is:

- (1) a fertilizer material;
- (2) a mixed fertilizer;
- (3) a customer-formula fertilizer;
- (4) another substance, material, or element,

including a pesticide, that is intended for use or is used as an ingredient or component of a mixture of materials that is used, designed or represented for use, or claimed to have value, in promoting plant growth; or

(5) any biosolid, compost, wastewater residuals, industrial or sewage septage, sewage sludge, lagoon residuals, or other material intended for use as a fertilizer, soil amendment, topsoil replacement, or other similar agricultural purpose that contains or was produced from sewage sludge.

SECTION 3. Subchapter F, Chapter 63, Agriculture Code, is amended by adding Section 63.096 to read as follows:

Sec. 63.096. PROVISIONS RELATED TO PRODUCTS CONTAINING PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES. (a) This section applies only to a county with a population of more than 175,000 and less than 195,000 according to the most recent federal decennial census.

(b) Except as otherwise provided in this Chapter, a person may not manufacture, sell, distribute, or apply any material described by Section 63.002(a)(5) with a concentration of perfluoroalkyl and polyfluoroalkyl substances above the following levels:

(1) Perfluorobutyric acid - 28,800 parts per trillion;

(2) Perfluorobutane sulfonate - 40,300 parts per trillion;

(3) Perfluoropentanoic acid - 14,400 parts per trillion;

(4) Perfluorohexane sulfonate - 300 parts per

1 trillion;
2 (5) Perfluorohexanoic acid - 9,400 parts per trillion;
3 (6) Perfluoroheptanoic acid - 400 parts per trillion;
4 (7) Perfluorooctanoic sultanate - 5,100 parts per
5 trillion;
6 (8) Perfluorooctanoic acid - 900 parts per trillion;
7 (9) Perfluorooctane sulfonamide - 2,700 parts per
8 trillion;
9 (10) Perfluorononanoic acid - 1,500 parts per
10 trillion;
11 (11) Perfluorodecanoic acid - 800 parts per trillion;
12 (12) Perfluorodecane sulfonate - 800 parts per
13 trillion;
14 (13) Perfluoroundecanoic acid - 800 parts per
15 trillion;
16 (14) Perfluorododecanoic acid - 800 parts per
17 trillion;
18 (15) Perfluorotridecanoic acid - 800 parts per
19 trillion;
20 (16) Perfluorotetradecanoic acid - 800 parts per
21 trillion;
22 (17) GenX Chemicals - 800 parts per trillion.

23 (c) Each month, a manufacturer of any material described by
24 Section 63.002(a)(5) located in or distributing products for
25 application in a county described by Subsection (a) shall send a
26 sample identified as required by Section 63.093 to the Texas A&M
27 AgriLife Extension Service for independent analysis for the

1 presence of perfluoroalkyl and polyfluoroalkyl substances.

2 (d) If the service finds that a sample contains
3 concentrations above the levels in Subsection (b), the service
4 shall notify the manufacturer and the manufacturer shall dispose of
5 the batch through an appropriate hazardous waste management unit or
6 incineration.

7 (e) Additional enforcement, recordkeeping, stop-sale
8 orders, and suspension provisions apply as provided by this
9 chapter.

10 SECTION 4. Subchapter H, Chapter 63, Agriculture Code, is
11 amended by adding Section 63.147 to read as follows:

12 Sec. 63.147. UNLAWFUL DISTRIBUTION OF PRODUCTS CONTAINING
13 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES. (a) This section
14 applies only to a county described by Section 63.096(a).

15 (b) A person commits an offense if the person, acting
16 intentionally or knowingly, sells, distributes, manufactures, or
17 applies any material described by Section 63.002(a)(5) with a
18 concentration of perfluoroalkyl and polyfluoroalkyl substances
19 above the levels listed in Section 63.096(b) in the county
20 described by Section 63.096(a).

21 (c) Except as provided by Subsection (d), an offense under
22 this section is a Class A misdemeanor.

23 (d) If it is shown on the trial of the offense that the
24 defendant has previously been convicted of an offense under this
25 section, the offense is a state jail felony.

26 SECTION 5. This Act takes effect September 1, 2026.