

By: Sparks

S.B. No. 886

A BILL TO BE ENTITLED

AN ACT

relating to the production, sale, and use of certain agricultural products containing perfluoroalkyl and polyfluoroalkyl substances (PFAS); 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; ~~[or]~~
- (4) another substance, material, or element, including a pesticide, that is intended for use or is used as an

1 ingredient or component of a mixture of materials that is used,
2 designed or represented for use, or claimed to have value, in
3 promoting plant growth[-]; or

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

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

11 Sec. 63.096. PROVISIONS RELATED TO PRODUCTS CONTAINING
12 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES. (a) Except as
13 otherwise provided in this Chapter, a person may not manufacture,
14 sell, distribute, or apply any material described by Section
15 63.002(a)(5) with a concentration of perfluoroalkyl and
16 polyfluoroalkyl substances above the following levels:

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

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

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

22 (4) Perfluorohexane sulfonate - 300 parts per
23 trillion;

24 (5) Perfluorohexanoic acid - 9,400 parts per trillion;

25 (6) Perfluoroheptanoic acid - 400 parts per trillion;

26 (7) Perfluorooctanoic sultanate - 5,100 parts per
27 trillion;

- 1 (8) Perfluorooctanoic acid - 900 parts per trillion;
2 (9) Perfluorooctane sulfonamide - 2,700 parts per
3 trillion;
4 (10) Perfluorononanoic acid - 1,500 parts per
5 trillion;
6 (11) Perfluorodecanoic acid - 800 parts per trillion;
7 (12) Perfluorodecane sulfonate - 800 parts per
8 trillion;
9 (13) Perfluoroundecanoic acid - 800 parts per
10 trillion;
11 (14) Perfluorododecanoic acid - 800 parts per
12 trillion;
13 (15) Perfluorotridecanoic acid - 800 parts per
14 trillion;
15 (16) Perfluorotridecanoic acid - 800 parts per
16 trillion;
17 (17) GenX Chemicals - 800 parts per trillion.

18 (b) Each month, a manufacturer of any material described by
19 Section 63.002(a)(5) shall send a sample identified as required by
20 Section 63.093 to the service for independent analysis for the
21 presence of perfluoroalkyl and polyfluoroalkyl substances. If the
22 service finds through chemical analysis or other method that a
23 sample contains a concentration of perfluoroalkyl and
24 polyfluoroalkyl substances above the levels in subsection (a):

- 25 (1) the service shall provide notification of its
26 findings as provided under Section 63.094(a); and
27 (2) the manufacturer shall dispose of the batch from

1 which the sample was taken through an appropriate hazardous waste
2 management unit as that term is defined in Section 361.003(14),
3 Health and Safety Code, or incineration.

4 (c) Within a single calendar year, if the service finds that
5 two or more samples provided by the same manufacturer under
6 Subsection (b) contain a concentration of perfluoroalkyl and
7 polyfluoroalkyl substances above the levels in subsection (a), the
8 service shall immediately issue a stop-sale order for all materials
9 described by Section 63.002(a)(5) produced by the manufacturer and
10 suspend the manufacturer's permit to distribute materials
11 described by 63.002(a)(5) until the manufacturer is able to provide
12 the service with a sample that is in compliance with this Section.
13 The service may conduct random on-site sampling at the
14 manufacturer's expense during the time the manufacturer's permit is
15 suspended as provided by the Subsection.

16 (d) If a manufacturer fails to send a sample as required
17 under Subsection (b) two or more times during a single calendar
18 year, the service shall take action against the manufacturer as
19 provided under Subsection (c).

20 (e) In addition to the requirements in Subsection (b), a
21 manufacturer of any material described by Section 63.002(a)(5)
22 shall self-test each batch of material prior to distribution, sale,
23 or application. The manufacturer must maintain records of each
24 test and publish the results on its public internet website. Any
25 test finding a concentration of perfluoroalkyl and polyfluoroalkyl
26 substances above the levels in subsection (a) shall be disposed of
27 as provided by Subsection (b)(2).

1 SECTION 4. Subchapter H, Chapter 63, Agriculture Code, is
2 amended by adding Sections 63.147 to read as follows:

3 Sec. 63.147. UNLAWFUL DISTRIBUTION OF PRODUCTS CONTAINING
4 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES. (a) A person
5 commits an offense if the person, acting intentionally or knowingly
6 with respect to the person's conduct, sells, distributes, or
7 applies any material described by Section 63.002(a)(5) with a
8 concentration of perfluoroalkyl and polyfluoroalkyl substances
9 above the levels listed in Section 63.096(a).

10 (b) Except as provided in Subsection (c), a violation of
11 this section is a Class A Misdemeanor.

12 (c) If a person has previously been convicted of a violation
13 of this section, a subsequent violation of this section is a State
14 Jail Felony.

15 SECTION 5. This Act takes effect September 1, 2025.