A BILL FOR

An Act prohibiting the use, manufacture, distribution, and sale of consumer products containing certain chemicals, making penalties applicable, and including effective date provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
Section 1. NEW SECTION. 455F.12 Upholstered furniture — flame retardant chemicals.

1. As used in this section, unless the context otherwise requires:
   a. "Flame-retardant chemical" means a chemical or chemical compound for which a functional use is to resist or inhibit the spread of fire. "Flame-retardant chemical" includes halogenated, phosphorus-based, nitrogen-based, and nanoscale flame retardants and any chemical or chemical compound for which "flame retardant" appears on the substance safety data sheet required under 29 C.F.R. §1910.1200(g).
   b. "Upholstered furniture" means residential furniture intended for indoor use in a home or dwelling unit and consisting in whole or in part of resilient cushioning materials enclosed within a covering that consists of fabric or related materials.

2. Except as otherwise provided, a person shall not sell or offer to sell or distribute for promotional purposes upholstered furniture containing in its fabric or other covering or in its cushioning materials more than one-tenth of one percent of a flame-retardant chemical or more than one-tenth of one percent of a mixture that includes flame-retardant chemicals.

3. Subsection 2 does not apply to the following upholstered furniture products containing flame-retardant chemicals:
   a. Used upholstered furniture.
   b. Upholstered furniture purchased for public use in public facilities, including schools, jails, and hospitals, that meets generally accepted flammability standards for seating furniture used in public occupancies.
   c. New upholstered furniture otherwise subject to subsection 2 that is sold, offered for sale, or distributed for promotional purposes in the state by a retailer or wholesaler on or after January 1, 2023, and that was imported into the state or otherwise purchased or acquired by the retailer or
wholesaler for sale or distribution in the state prior to January 1, 2023.

Sec. 2. NEW SECTION. 455F.13 Food packaging — fire fighting foam — fire fighting personal protective equipment — perfluoroalkyl or polyfluoroalkyl substances.

1. As used in this section, unless the context otherwise requires:
   a. "Class B fire fighting foam" means foam designed to extinguish flammable-liquid fires.
   b. "Fire fighting personal protective equipment" means any clothing designed, intended, or marketed to be worn by fire fighting personnel in the performance of their duties during fire and rescue activities, including but not limited to jackets, pants, shoes, gloves, helmets, and respiratory equipment.
   c. "Food packaging" means a package, including a unit package, intermediate package, or shipping container, or a packaging component, including any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coating, closure, ink, or label, that is intended for the marketing, protection, or handling of a product intended for food contact or used to store food for sale.
   d. "Perfluoroalkyl substance" or "polyfluoroalkyl substance" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

2. Except as otherwise provided, a person shall not knowingly manufacture, sell, offer for sale, distribute for sale, or distribute for use in this state food packaging, class B fire fighting foam, or fire fighting personal protective equipment to which a perfluoroalkyl substance or polyfluoroalkyl substance has been intentionally added in any amount.

3. Subsection 2 does not apply to new food packaging, class B fire fighting foam, or fire fighting personal protective equipment that is sold, offered for sale, or distributed for
promotional purposes in the state by a retailer or wholesaler on or after January 1, 2023, that was imported into the state or otherwise purchased or acquired by the retailer or wholesaler for sale or distribution in the state prior to January 1, 2023.

Sec. 3. NEW SECTION. 455F.14 Class B fire fighting foam — prohibition — exceptions.

1. For purposes of this section, unless the context otherwise requires:
   a. "Class B fire fighting foam" means the same as defined in section 455F.13.
   b. "Local government" means a county, city, township, fire district, or other special purpose district that provides fire fighting services.
   c. "Perfluoroalkyl substance" or "polyfluoroalkyl substance" means the same as defined in section 455F.13.
   d. "Terminal" means a fuel storage and distribution facility that has been assigned a terminal control number by the federal internal revenue service.

2. Except as otherwise provided, a person, local government, or state agency shall not discharge or otherwise use for training purposes a class B fire fighting foam that contains a perfluoroalkyl substance or polyfluoroalkyl substance that was intentionally added.

3. Subsection 2 does not apply to the use, manufacture, sale, or distribution of a class B fire fighting foam that includes a perfluoroalkyl substance or polyfluoroalkyl substance that was intentionally added when the inclusion of the perfluoroalkyl substance or polyfluoroalkyl substance is required by federal law. If an applicable federal law allows the use of an alternative fire fighting agent that does not contain a perfluoroalkyl substance or polyfluoroalkyl substance, the department of public health may adopt rules that restrict the use, manufacture, sale, and distribution of class B fire fighting foam for uses that are addressed by the
applicable federal law.
4. Subsection 2 does not apply to the use, manufacture, sale, or distribution of a class B fire fighting foam that includes a perfluoroalkyl substance or polyfluoroalkyl substance that was intentionally added when the class B fire fighting foam is used by a person operating a terminal.

Sec. 4. PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES ALTERNATIVES STUDY. The department of public health shall conduct a one-year study of alternatives to perfluoroalkyl and polyfluoroalkyl substances in food packaging. The department shall assess the prevalence of perfluoroalkyl and polyfluoroalkyl substances in food packaging and determine the risks posed to consumers in the state. The department shall identify safe alternative food packaging materials.

The department shall submit a report to the general assembly detailing its findings and recommendations by December 31, 2023.

Sec. 5. EFFECTIVE DATE. The following take effect January 1, 2023:

The sections of this Act enacting sections 455F.12, 455F.13, and 455F.14.

EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill relates to certain consumer products that contain certain chemicals.

The bill prohibits the sale of upholstered furniture that contains flame-retardant chemicals or chemical compounds. The bill makes exceptions for used upholstered furniture, certain upholstered furniture purchased for public use in public facilities, and new upholstered furniture that is otherwise subject to the prohibition but was imported into the state or otherwise purchased or acquired by a retailer or wholesaler for sale or distribution in the state prior to January 1, 2023.

The bill prohibits the sale of food packaging, class B fire
fighting foam, and fire fighting personal protective equipment that contains a perfluoroalkyl or polyfluoroalkyl substance that was intentionally added. The bill makes an exception for new food packaging, class B fire fighting foam, and fire fighting personal protective equipment that is otherwise subject to the prohibition but was imported into the state or otherwise purchased or acquired by a retailer or wholesaler for sale or distribution in the state prior to January 1, 2023. The bill also prohibits a person, local government, or state agency from discharging or otherwise using for training purposes a class B fire fighting foam that contains a perfluoroalkyl or polyfluoroalkyl substance that was intentionally added, with certain exceptions. A violation of the provisions in the bill regulating products is a simple misdemeanor. A simple misdemeanor is punishable by confinement for no more than 30 days or a fine of at least $105 but not more than $855 or by both. These provisions take effect January 1, 2023. The bill requires the department of public health to conduct a one-year study investigating perfluoroalkyl and polyfluoroalkyl substances in food packaging and finding safe alternative food packaging materials. The department shall submit a report of its findings and recommendations to the general assembly by December 31, 2023.