

1 AN ACT relating to perfluoroalkyl and polyfluoroalkyl substances.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS 95A.200 TO 95A.300 IS CREATED
4 TO READ AS FOLLOWS:

5 *(1) The Kentucky Fire Commission may operate a professional firefighter PFAS*
6 *blood test reimbursement program. Professional firefighters who undergo testing*
7 *for PFAS in their blood and who pay for that testing out of pocket, or whose*
8 *insurance partially covers or does not cover any of the cost of the test, may apply*
9 *to the commission for reimbursement of out-of-pocket expenses using moneys*
10 *from the Firefighters Foundation Program fund established in KRS 95A.220.*

11 *(2) If the commission operates a PFAS blood test reimbursement program, it shall*
12 *establish policies and procedures regarding:*

13 *(a) The method to submit claims under the program, including what*
14 *documentation would be required;*

15 *(b) The maximum number or frequency of claims an individual professional*
16 *firefighter may submit;*

17 *(c) The amount of reimbursement provided for an individual claim;*

18 *(d) The types of PFAS and tests for which it will provide reimbursement; and*

19 *(e) Any other aspects of the program the commission determines as reasonable*
20 *in implementing this section.*

21 *(3) Any professional firefighters who the commission reimburses for out-of-pocket*
22 *expenses for PFAS blood testing shall submit the results of the blood test to the*
23 *commission. The commission shall treat all test results it receives under this*
24 *subsection as confidential medical records in compliance with the federal Health*
25 *Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.*

26 ➔Section 2. KRS 95A.210 is amended to read as follows:

27 As used in KRS 95A.200 to 95A.300, unless the context otherwise requires:

- 1 (1) "Commission" means the Kentucky Fire Commission established pursuant to KRS
2 95A.020;
- 3 (2) "Established work schedule" means a work schedule adopted by or required of a
4 local government setting a recurring pattern for time on and off duty for
5 professional firefighters employed by the local government. An established work
6 schedule includes but is not limited to a schedule of twenty-four (24) consecutive
7 hours on duty, followed by forty-eight (48) consecutive hours off duty;
- 8 (3) "Executive director" means the executive director of the Kentucky Fire
9 Commission;
- 10 (4) "Fund" means Firefighters Foundation Program Fund;
- 11 (5) "Local government" means any city, county, urban-county government, charter
12 county government, unified local government, consolidated local government, air
13 board created under KRS Chapter 183, or any combination thereof of the
14 Commonwealth;
- 15 (6) **"PFAS chemicals" or "PFAS" means all perfluoroalkyl or polyfluoroalkyl**
16 **substances containing at least one (1) fully fluorinated carbon atom;**
- 17 **(7)** "Professional firefighter" means any member of a paid municipal fire department
18 organized under KRS Chapter 95, 67A, or 67C, a fire protection district organized
19 under KRS Chapter 75, a county fire department created pursuant to KRS Chapter
20 67, or any firefighter employed by an air board created under KRS Chapter 183;
- 21 **(8)**~~-(7)~~ "Program" means the Alan "Chip" Terry Professional Development and
22 Wellness Program for firefighters established in KRS 95A.292;
- 23 **(9)**~~-(8)~~ "Scheduled overtime" means work by a professional firefighter in excess of
24 forty (40) hours per week which regularly recurs as part of an established work
25 schedule; and
- 26 **(10)**~~-(9)~~ "Unscheduled overtime" means work by a professional firefighter in excess of
27 forty (40) hours per week which does not regularly recur as part of an established

1 work schedule.

2 ➔Section 3. KRS 95A.262 is amended to read as follows:

- 3 (1) The Kentucky Fire Commission shall, in cooperation with the Cabinet for Health
4 and Family Services, develop and implement a continuing program to inoculate
5 every paid and volunteer firefighter in Kentucky against hepatitis A and B. The
6 program shall be funded from revenues allocated to the Firefighters Foundation
7 Program fund pursuant to KRS 136.392 and 42.190, not to exceed five hundred
8 thousand dollars (\$500,000) per fiscal year.
- 9 (2) (a) Except as provided in subsection (3) of this section, the Kentucky Fire
10 Commission shall allot on an annual basis a share of the funds accruing to and
11 appropriated for volunteer fire department aid to volunteer fire departments in
12 cities of all classes, fire protection districts organized pursuant to KRS
13 Chapter 75, county districts established under authority of KRS 67.083, and
14 volunteer fire departments created as nonprofit corporations pursuant to KRS
15 Chapter 273.
- 16 (b) The commission shall allot eleven thousand dollars (\$11,000) annually to
17 each qualifying department.
- 18 (c) Any qualifying department which fails to participate satisfactorily in the
19 Kentucky fire incident reporting system as described in KRS 304.13-380 shall
20 forfeit annually five hundred dollars (\$500) of its allotment.
- 21 (d) If two (2) or more qualified volunteer fire departments, as defined in KRS
22 95A.500 to 95A.560, merge after January 1, 2000, then the allotment shall be
23 in accordance with the provisions of KRS 95A.500 to 95A.560.
- 24 (e) Administrative regulations for determining qualifications shall be based on
25 the number of both paid firefighters and volunteer firemen within a volunteer
26 fire department, the amount of equipment, housing facilities available, and
27 any other matters or standards that will best effect the purposes of the

1 volunteer fire department aid law. A qualifying department shall:

- 2 1. Include at least twelve (12) firefighters;
- 3 2. Have a chief;
- 4 3. Have at least one (1) operational fire apparatus or one (1) on order; and
- 5 4. Have at least fifty percent (50%) of its firefighters who have completed
6 at least one-half (1/2) of one hundred fifty (150) training hours, or as
7 otherwise established by the commission under KRS 95A.240(6),
8 toward certification within the first six (6) months of the first year of the
9 department's application for certification, and there shall be a plan to
10 complete the one hundred fifty (150) training hours, or as otherwise
11 established by the commission by KRS 95A.240(6), within the second
12 year.

13 These personnel, equipment, and training requirements shall not be made
14 more stringent by the promulgation of administrative regulations.

15 (f) No allotment shall exceed the total value of the funds, equipment, lands, and
16 buildings made available to the local fire units from any source whatever for
17 the year in which the allotment is made.

18 (g) A portion of the funds provided for above may be used to purchase group or
19 blanket health insurance and shall be used to purchase workers' compensation
20 insurance, and the remaining funds shall be distributed as provided in this
21 section.

22 (3) There shall be allotted two hundred thousand dollars (\$200,000) of the insurance
23 premium surcharge proceeds accruing to the Firefighters Foundation Program fund
24 that shall be allocated each fiscal year of the biennium to the firefighters training
25 center fund, which is hereby created and established, for the purposes of
26 constructing new or upgrading existing training centers for firefighters. If any
27 moneys in the training center fund remain uncommitted, unobligated, or

1 unexpended at the close of the first fiscal year of the biennium, then such moneys
2 shall be carried forward to the second fiscal year of the biennium, and shall be
3 reallocated to and for the use of the training center fund, in addition to the second
4 fiscal year's allocation of two hundred thousand dollars (\$200,000). Prior to funding
5 any project pursuant to this subsection, a proposed project shall be approved by the
6 Kentucky Fire Commission as provided in subsection (4) of this section and shall
7 comply with state laws applicable to capital construction projects.

8 (4) Applications for funding low-interest loans and firefighters' training centers shall be
9 submitted to the Kentucky Fire Commission for their recommendation, approval,
10 disapproval, or modification. The commission shall review applications
11 periodically, and shall, subject to funds available, recommend which applications
12 shall be funded and at what levels, together with any terms and conditions the
13 commission deems necessary.

14 (5) Any department or entity eligible for and receiving funding pursuant to this section
15 shall have a minimum of fifty percent (50%) of its personnel certified as recognized
16 by the Kentucky Fire Commission.

17 (6) Upon the written request of any department, the Kentucky Fire Commission shall
18 make available a certified training program in a county of which such department is
19 located.

20 (7) The amount of reimbursement for any given year for costs incurred by the
21 Kentucky Community and Technical College System for administering these funds,
22 including but not limited to the expenses and costs of commission operations, shall
23 be determined by the commission and shall not exceed five percent (5%) of the total
24 amount of moneys accruing to the Firefighters Foundation Program fund which are
25 allotted for the purposes specified in this section during any fiscal year.

26 (8) The commission shall withhold from the general distribution of funds under
27 subsection (2) of this section an amount which it deems sufficient to reimburse

1 volunteer fire departments for equipment lost or damaged beyond repair due to
2 hazardous material incidents.

3 (9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only
4 under the following terms and conditions:

5 (a) A volunteer fire department has lost or damaged beyond repair items of
6 personal protective clothing or equipment due to that equipment having been
7 lost or damaged as a result of an incident in which a hazardous material (as
8 defined in any state or federal statute or regulation) was the causative agent of
9 the loss;

10 (b) The volunteer fire department has made application in writing to the
11 commission for reimbursement in a manner approved by the commission and
12 the loss and the circumstances thereof have been verified by the commission;

13 (c) The loss of or damage to the equipment has not been reimbursed by the
14 person responsible for the hazardous materials incident or by any other
15 person;

16 (d) The commission has determined that the volunteer fire department does not
17 have the fiscal resources to replace the equipment;

18 (e) The commission has determined that the equipment sought to be replaced is
19 immediately necessary to protect the lives of the volunteer firefighters of the
20 fire department;

21 (f) The fire department has agreed in writing to subrogate all claims for and
22 rights to reimbursement for the lost or damaged equipment to the
23 Commonwealth to the extent that the Commonwealth provides reimbursement
24 to the department; and

25 (g) The department has shown to the satisfaction of the commission that it has
26 made reasonable attempts to secure reimbursement for its losses from the
27 person responsible for the hazardous materials incident and has been

1 unsuccessful in the effort.

2 (10) If a volunteer fire department has met all of the requirements of subsection (9) of
3 this section, the commission may authorize a reimbursement of equipment losses
4 not exceeding ten thousand dollars (\$10,000) or the actual amount of the loss,
5 whichever is less.

6 (11) Moneys which have been withheld during any fiscal year which remain unexpended
7 at the end of the fiscal year shall be distributed in the normal manner required by
8 subsection (2) of this section during the following fiscal year.

9 (12) No volunteer fire department may receive funding for equipment losses more than
10 once during any fiscal year.

11 (13) The commission shall make reasonable efforts to secure reimbursement from the
12 responsible party for any moneys awarded to a fire department pursuant to this
13 section.

14 (14) The commission, in accordance with the procedures in subsection (4) of this
15 section, may make low-interest loans, and the interest thereon shall not exceed three
16 percent (3%) annually or the amount needed to sustain operating expenses of the
17 loan fund, whichever is less, to volunteer fire departments for the purposes of major
18 equipment purchases and facility construction. Loans shall be made to departments
19 which achieve the training standards necessary to qualify for volunteer fire
20 department aid allotted pursuant to subsection (2) of this section, and which do not
21 have other sources of funds at rates which are favorable given their financial
22 resources. The proceeds of loan payments shall be returned to the loan fund for the
23 purpose of providing future loans. If a department does not make scheduled loan
24 payments, the commission may withhold any grants payable to the department
25 pursuant to subsection (2) of this section until the department is current on its
26 payments. Money in the low-interest loan fund shall be used only for the purposes
27 specified in this subsection. Any funds remaining in the fund at the end of a fiscal

1 year shall be carried forward to the next fiscal year for the purposes of the fund.

2 (15) Each fiscal year there shall be allotted one million dollars (\$1,000,000) from the
3 fund established in KRS 95A.220 to be used by the commission to conduct training-
4 related activities.

5 (16) If funding is available from the fund established in KRS 95A.220, the Kentucky
6 Fire Commission may implement the following:

7 (a) A program to prepare emergency service personnel for handling potential
8 man-made and non-man-made threats. The commission shall work in
9 conjunction with the state fire marshal and other appropriate agencies and
10 associations to identify and make maps of gas transmission and hazardous
11 liquids pipelines in the state;

12 (b) A program to provide and maintain a mobile test facility in each training
13 region established by the Kentucky Fire Commission with equipment to
14 administer Comprehensive Physical Aptitude Tests (CPAT) to ascertain a
15 firefighter's ability to perform the physical requirements necessary to be an
16 effective and safe firefighter;

17 (c) A program to provide defensive driving training tactics to firefighters. The
18 commission shall purchase, instruct in the use of, and maintain mobile
19 equipment in each of the training regions, and fund expenses related to
20 equipment replacement;

21 (d) A program to annually evaluate equipment adequacy and to provide for
22 annual physical examinations for instructors, adequate protective clothing and
23 personal equipment to meet NFPA guidelines, and to establish procedures for
24 replacing this equipment as needed;

25 (e) A program to establish a rotational expansion and replacement program for
26 mobile fleet equipment currently used for training and recertification of fire
27 departments;

1 (f) A program to expand and update current emergency medical services,
2 emergency medical responder, emergency medical technician, advanced
3 emergency medical technician, and paramedic training and certification
4 instruction;~~and~~

5 (g) A program to purchase thermal vision devices to comply with the provisions
6 of KRS 95A.400 to 95A.440; and

7 (h) A program to provide reimbursement to professional firefighters who
8 undergo testing for PFAS in their blood in accordance with Section 1 of this
9 Act.

10 ➔Section 4. KRS 337.010 is amended to read as follows:

11 (1) As used in this chapter, unless the context requires otherwise:

12 (a) "Commissioner" means the commissioner of the Department of Workplace
13 Standards under the direction and supervision of the secretary of the
14 Education and Labor Cabinet;

15 (b) "Department" means the Department of Workplace Standards in the
16 Education and Labor Cabinet;

17 (c) 1. "Wages" includes any compensation due to an employee by reason of
18 his or her employment, including salaries, commissions, vested vacation
19 pay, overtime pay, severance or dismissal pay, earned bonuses, and any
20 other similar advantages agreed upon by the employer and the employee
21 or provided to employees as an established policy. The wages shall be
22 payable in legal tender of the United States, checks on banks, direct
23 deposits, or payroll card accounts convertible into cash on demand at
24 full face value, subject to the allowances made in this chapter. However,
25 an employee may not be charged an activation fee and the payroll card
26 account shall provide the employee with the ability, without charge, to
27 make at least one (1) withdrawal per pay period for any amount up to

1 and including the full account balance.

2 2. For the purposes of calculating hourly wage rates for scheduled
3 overtime for professional firefighters, as defined in KRS
4 95A.210~~(9)~~~~(8)~~, "wages" shall not include the distribution to qualified
5 professional firefighters by local governments of supplements received
6 from the Firefighters Foundation Program Fund. For the purposes of
7 calculating hourly wage rates for unscheduled overtime for professional
8 firefighters, as defined in KRS 95A.210~~(10)~~~~(9)~~, "wages" shall include
9 the distribution to qualified professional firefighters by local
10 governments of supplements received from the Firefighters Foundation
11 Program Fund;

12 (d) "Employer" is any person, either individual, corporation, partnership, agency,
13 or firm who employs an employee and includes any person, either individual,
14 corporation, partnership, agency, or firm acting directly or indirectly in the
15 interest of an employer in relation to an employee; and

16 (e) "Employee" is any person employed by or suffered or permitted to work for
17 an employer, except that:

18 1. Notwithstanding any voluntary agreement entered into between the
19 United States Department of Labor and a franchisee, neither a franchisee
20 nor a franchisee's employee shall be deemed to be an employee of the
21 franchisor for any purpose under this chapter; and

22 2. Notwithstanding any voluntary agreement entered into between the
23 United States Department of Labor and a franchisor, neither a franchisor
24 nor a franchisor's employee shall be deemed to be an employee of the
25 franchisee for any purpose under this chapter.

26 For purposes of this paragraph, "franchisee" and "franchisor" have the same
27 meanings as in 16 C.F.R. sec. 436.1.

1 (2) As used in KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405, unless the
2 context requires otherwise:

3 (a) "Employee" is any person employed by or suffered or permitted to work for
4 an employer, but shall not include:

- 5 1. Any individual employed in agriculture;
- 6 2. Any individual employed in a bona fide executive, administrative,
7 supervisory, or professional capacity, or in the capacity of outside
8 salesman, or as an outside collector as the terms are defined by
9 administrative regulations of the commissioner;
- 10 3. Any individual employed by the United States;
- 11 4. Any individual employed in domestic service in or about a private
12 home. The provisions of this section shall include individuals employed
13 in domestic service in or about the home of an employer where there is
14 more than one (1) domestic servant regularly employed;
- 15 5. Any individual classified and given a certificate by the commissioner
16 showing a status of learner, apprentice, worker with a disability,
17 sheltered workshop employee, and student under administrative
18 procedures and administrative regulations prescribed and promulgated
19 by the commissioner. This certificate shall authorize employment at the
20 wages, less than the established fixed minimum fair wage rates, and for
21 the period of time fixed by the commissioner and stated in the certificate
22 issued to the person;
- 23 6. Employees of retail stores, service industries, hotels, motels, and
24 restaurant operations whose average annual gross volume of sales made
25 for business done is less than ninety-five thousand dollars (\$95,000) for
26 the five (5) preceding years exclusive of excise taxes at the retail level
27 or if the employee is the parent, spouse, child, or other member of his or

- 1 her employer's immediate family;
- 2 7. Any individual employed as a baby-sitter in an employer's home, or an
3 individual employed as a companion by a sick, convalescing, or elderly
4 person or by the person's immediate family, to care for that sick,
5 convalescing, or elderly person and whose principal duties do not
6 include housekeeping;
- 7 8. Any individual engaged in the delivery of newspapers to the consumer;
- 8 9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A,
9 30A, and 18A provided that the secretary of the Personnel Cabinet shall
10 have the authority to prescribe by administrative regulation those
11 emergency employees, or others, who shall receive overtime pay rates
12 necessary for the efficient operation of government and the protection of
13 affected employees;
- 14 10. Any employee employed by an establishment which is an organized
15 nonprofit camp, religious, or nonprofit educational conference center, if
16 it does not operate for more than two hundred ten (210) days in any
17 calendar year;
- 18 11. Any employee whose function is to provide twenty-four (24) hour
19 residential care on the employer's premises in a parental role to children
20 who are primarily dependent, neglected, and abused and who are in the
21 care of private, nonprofit childcaring facilities licensed by the Cabinet
22 for Health and Family Services under KRS 199.640 to 199.670;
- 23 12. Any individual whose function is to provide twenty-four (24) hour
24 residential care in his or her own home as a family caregiver, family
25 home provider, or adult foster care provider and who is approved to
26 provide family caregiver services to an adult with a disability through a
27 contractual relationship with a community board for mental health or

- 1 individuals with an intellectual disability established under KRS
2 210.370 to 210.460 or through a contractual relationship with a certified
3 waiver provider as defined in 907 KAR 7:005 sec. 1(5), or is certified or
4 licensed by the Cabinet for Health and Family Services to provide adult
5 foster care;
- 6 13. A direct seller as defined in Section 3508(b)(2) of the Internal Revenue
7 Code of 1986; or
- 8 14. Any individual whose function is to provide behavior support services,
9 behavior programming services, case management services, community
10 living support services, positive behavior support services, or respite
11 services through a contractual relationship with a certified waiver
12 provider, as defined in 907 KAR 7:005 sec. 1(5), pursuant to a 1915(c)
13 home and community based services waiver program, as defined in 907
14 KAR 7:005 sec. 1(2);
- 15 (b) "Agriculture" means farming in all its branches, including cultivation and
16 tillage of the soil; dairying; production, cultivation, growing, and harvesting
17 of any agricultural or horticultural commodity; raising of livestock, bees,
18 furbearing animals, or poultry; and any practice, including any forestry or
19 lumbering operations, performed on a farm in conjunction with farming
20 operations, including preparation and delivery of produce to storage, to
21 market, or to carriers for transportation to market;
- 22 (c) "Gratuity" means voluntary monetary contribution received by an employee
23 from a guest, patron, or customer for services rendered;
- 24 (d) "Tipped employee" means any employee engaged in an occupation in which
25 he or she customarily and regularly receives more than thirty dollars (\$30) per
26 month in tips; and
- 27 (e) "U.S.C." means the United States Code.