

118TH CONGRESS
1ST SESSION

S. _____

To exempt certain aviation entities from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 for the release of certain perfluoroalkyl or polyfluoroalkyl substances, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. LUMMIS introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To exempt certain aviation entities from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 for the release of certain perfluoroalkyl or polyfluoroalkyl substances, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Airports PFAS Liabil-
5 ity Protection Act”.

6 **SEC. 2. EXEMPTION UNDER CERCLA.**

7 (a) DEFINITIONS.—In this section:

1 (1) COVERED PERFLUOROALKYL OR
2 POLYFLUOROALKYL SUBSTANCE.—The term “cov-
3 ered perfluoroalkyl or polyfluoroalkyl substance”
4 means a non-polymeric perfluoroalkyl or
5 polyfluoroalkyl substance that contains at least 2 se-
6 quential fully fluorinated carbon atoms, excluding
7 gases and volatile liquids, that is a hazardous sub-
8 stance (as defined in section 101 of the Comprehen-
9 sive Environmental Response, Compensation, and
10 Liability Act of 1980 (42 U.S.C. 9601)).

11 (2) INDIAN TRIBE.—The term “Indian Tribe”
12 has the meaning given the term in section 4 of the
13 Indian Self-Determination and Education Assistance
14 Act (25 U.S.C. 5304).

15 (3) SPONSOR.—The term “sponsor” has the
16 meaning given the term in section 47102 of title 49,
17 United States Code.

18 (b) EXEMPTION.—Subject to subsection (c), no per-
19 son (including the United States, any State, or an Indian
20 Tribe) may recover costs or damages from a sponsor, in-
21 cluding a sponsor of the civilian portion of a joint-use air-
22 port or a shared-use airport (as those terms are defined
23 in section 139.5 of title 14, Code of Federal Regulations
24 (or a successor regulation)), under the Comprehensive En-
25 vironmental Response, Compensation, and Liability Act of

1 1980 (42 U.S.C. 9601 et seq.) for costs arising from a
2 release to the environment of a covered perfluoroalkyl or
3 polyfluoroalkyl substance.

4 (c) REQUIREMENTS.—Subsection (b) shall only
5 apply—

6 (1) if the release of a covered perfluoroalkyl or
7 polyfluoroalkyl substance by a sponsor resulted from
8 the use of an aqueous film forming foam; and

9 (2) if the use described in paragraph (1) was—

10 (A) required by the Federal Aviation Ad-
11 ministration for compliance with part 139 of
12 title 14, Code of Federal Regulations (or suc-
13 cessor regulations); and

14 (B) carried out in accordance with Federal
15 Aviation Administration standards and guid-
16 ance on the use of that substance.

17 (d) SAVINGS PROVISION.—Nothing in this section
18 precludes liability for damages or costs associated with the
19 release of a covered perfluoroalkyl or polyfluoroalkyl sub-
20 stance by a sponsor if that sponsor acted with gross neg-
21 ligence or willful misconduct in the use of an aqueous film
22 forming foam.