

118TH CONGRESS
1ST SESSION

S. _____

To exempt certain entities from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 with respect to releases of perfluoroalkyl and 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 entities from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 with respect to releases of perfluoroalkyl and 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 “Resource Management
5 PFAS Liability Protection Act of 2023”.

1 **SEC. 2. EXEMPTION FOR OWNERS AND OPERATORS OF**
2 **CERTAIN RESOURCE MANAGEMENT FACILI-**
3 **TIES FROM CERCLA LIABILITY FOR RE-**
4 **LEASES OF PFAS.**

5 (a) DEFINITIONS.—In this section:

6 (1) COMPOST.—The term “compost” has the
7 meaning given the term in section 205.2 of title 7,
8 Code of Federal Regulations (or a successor regula-
9 tion).

10 (2) COVERED PERFLUOROALKYL OR
11 POLYFLUOROALKYL SUBSTANCE.—The term “cov-
12 ered perfluoroalkyl or polyfluoroalkyl substance”
13 means a non-polymeric perfluoroalkyl or
14 polyfluoroalkyl substance that contains at least 2 se-
15 quential fully fluorinated carbon atoms, excluding
16 gases and volatile liquids, that is a hazardous sub-
17 stance (as defined in section 101 of the Comprehen-
18 sive Environmental Response, Compensation, and
19 Liability Act of 1980 (42 U.S.C. 9601)).

20 (3) INDIAN TRIBE.—The term “Indian Tribe”
21 has the meaning given the term in section 4 of the
22 Indian Self-Determination and Education Assistance
23 Act (25 U.S.C. 5304).

24 (4) PROTECTED ENTITY.—The term “protected
25 entity” means an owner or operator (as defined in
26 section 101 of the Comprehensive Environmental

1 Response, Compensation, and Liability Act of 1980
2 (42 U.S.C. 9601)) of—

3 (A) a solid waste management facility (as
4 defined in section 1004 of the Solid Waste Dis-
5 posal Act (42 U.S.C. 6903)); or

6 (B) a facility that processes compost for
7 sale or distribution to the public.

8 (b) EXEMPTION.—Subject to subsection (c), no per-
9 son (including the United States, any State, or an Indian
10 Tribe) may recover costs or damages from a protected en-
11 tity under the Comprehensive Environmental Response,
12 Compensation, and Liability Act of 1980 (42 U.S.C. 9601
13 et seq.) for costs arising from a release to the environment
14 of a covered perfluoroalkyl or polyfluoroalkyl substance.

15 (c) REQUIREMENTS.—Subsection (b) shall only apply
16 if the release of a covered perfluoroalkyl or polyfluoroalkyl
17 substance by a protected entity resulted from—

18 (1) the disposal or management of any residu-
19 als or byproduct of municipal solid waste in accord-
20 ance with a permit issued under the Federal Water
21 Pollution Control Act (33 U.S.C. 1251 et seq.), the
22 Solid Waste Disposal Act (42 U.S.C. 6901 et seq.),
23 or similar State or local authority;

1 (2) the disposal or management of biosolids
2 consistent with section 405 of the Federal Water
3 Pollution Control Act (33 U.S.C. 1345); or

4 (3) the application or processing of compost in
5 accordance with State law.

6 (d) SAVINGS PROVISION.—Nothing in this section
7 precludes liability for damages or costs associated with the
8 release of a covered perfluoroalkyl or polyfluoroalkyl sub-
9 stance by a protected entity if that protected entity acted
10 with gross negligence or willful misconduct in the dis-
11 charge, disposal, management, processing, conveyance, or
12 storage of the covered perfluoroalkyl or polyfluoroalkyl
13 substance.