

The House Committee on Judiciary offers the following substitute to HB 211:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 51 of the Official Code of Georgia Annotated, relating to torts, so as to
2 provide for immunity from certain lawsuits related to certain chemicals; to provide for
3 continuation of personal injury liability; to provide for definitions; to provide for related
4 matters; to provide for a short title; to provide for an effective date; to repeal conflicting
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 This Act shall be known and may be cited as the "PFAS Receiver Shield Act."

9 **SECTION 2.**

10 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by adding
11 a new chapter to read as follows:

"CHAPTER 1751-17-1.As used in this chapter, the term:

(1) 'Gross negligence' means an intentional, deliberate action, with a reckless disregard of consequences or something less than criminal misconduct, but greater than gross negligence or wanton carelessness. Such term involves conduct of a quasi-criminal nature and the intentional doing of something, either with the knowledge that it is likely to result in serious injury, or with a knowingly wanton and reckless disregard of its probable consequences. Such term may include the conscious or intentional violation of definite law or clear rules of conduct, which shall be judged at the time the conduct occurred and obedience to such conduct shall not be not discretionary.

(2) 'PFAS' means any perfluorochemicals, polyfluorochemicals, perfluoroalkyl substances, polyfluoroalkyl substances, and any related chemicals that degrade to PFAS/PFOA/PFOS, and any precursors to PFAS, PFOA, and PFOS, including, but not limited to, PFOA, PFOS, GenX, HFPODA, NEtFOSAA, NMeFOSAA, PFBS, PFDA, PFDoA, PFHpA, PFHxS, PFNA, PFTTrDA, PFTA, PFUnA, 11Cl0PF3OUdS, 9Cl-PF3ONS, ADONA, PFPeS, PFHpS, 4:2 FTS (1H, 1H, 2H, 2H-perfluorohexane sulfonic acid), 6:2 FTS (1H, 1H, 2H, 2H-perfluorohexane sulfonic acid), 8:2 FTS (1H, 1H, 2H, 2H-perfluorohexane sulfonic acid), PFBA, PFPeA, PFMBA, PFMPA, PFEESA, PFHxA, and NFDHA.

(3) 'PFAS manufacturer' means any person or entity that knowingly created, formulated, licensed, made, manufactured, or otherwise originated into commerce any PFAS substance and who has sold or licensed any PFAS substance to others for use.

(4) 'PFAS monomer' means the class of fluorinated substances that are components of PFAS substances, including PFOA, PFOS, GenX, HFPODA, NEtFOSAA, NMeFOSAA, PFBS, PFDA, PFDoA, PFHpA, PFHxS, PFNA, PFTTrDA, PFTA, PFUnA,

11Cl0PF3OUdS, 9Cl-PF3ONS, ADONA, PFPeS, PFHpS, 4:2 FTS (1H, 1H, 2H, 2H-perfluorohexane sulfonic acid), 6:2 FTS (1H, 1H, 2H, 2H-perfluorohexane sulfonic acid), 8:2 FTS (1H, 1H, 2H, 2H-perfluorohexane sulfonic acid), PFBA, PFPeA, PFMBA, PFMPA, PFEESA, NFDHA, and chemically similar molecules.

(5) 'PFAS receiver' means any person or entity, not including any person or entity that is also a PFAS manufacturer, who:

(A) Uses or applies PFAS substances in the manufacture of goods or in agriculture;

(B) Receives or obtains goods or products that contain PFAS;

(C) Purchases or owns goods or products that contain PFAS; or

(D) Is licensed, permitted, and regulated by the Environmental Protection Division of the Department of Natural Resources, as required by law, and receives industrial or household solid waste or waste water that contains PFAS.

(6) 'PFAS substance' means any chemical agent or compound containing PFAS, any polymer where a PFAS monomer is a constituent in the polymerization process, or any combination of materials where a PFAS monomer is found as a portion of another molecule received by others for application or use in agriculture or in manufactured goods or as a processing aid in any industry other than the chemical manufacturing industry.

51-17-2.

(a)(1) Absent gross negligence, no PFAS receiver shall be held liable for damages in an action involving a liability claim arising from or related to its intended or incidental use, receipt, or disposal of PFAS. To negate the immunity provided for in this Code section, a plaintiff shall plead facts with particularity sufficient to demonstrate gross negligence, and the determination of whether such conduct constitutes gross negligence shall be a question of law decided by the court.

(2) No PFAS receiver shall be held liable for damages in an action involving a liability claim arising from or related to its handling of PFAS substances, including disposal of industrial effluent into waste-water treatment facilities and of solid waste from PFAS substances into public landfills where such PFAS receiver has complied with all testing and met all limits imposed by the rules and regulations of the United States Environmental Protection Agency and the Environmental Protection Division of the Department of Natural Resources.

(b) The immunities set forth in subsection (a) of this Code section shall:

(1) Be provided in addition to, and shall in no way limit, any other immunity protections that may apply in state or federal law;

(2) Not apply to claims brought by the Georgia Environmental Protection Division enforcing regulations; and

(3) Be available to any environmental engineer or other environmental consultant who provides any such professional services to the PFAS receiver related to the intended or incidental use, receipt, or disposal of PFAS by such PFAS receiver.

(c) Nothing in this Code section shall be construed to limit the:

(1) Right of a defendant to seek and recover damages for the tortious injury or death of a person; or

(2) Duty of a PFAS receiver to provide notice to any individual or the public at large of any threat to public safety or welfare pursuant to any common law duty to warn or any applicable federal or state law.

51-17-3.

This chapter shall not modify or supersede the terms or application of:

(1) Title 16, relating to crimes and offenses;

(2) Title 31, relating to health or any state regulations related thereto;

(3) Chapter 9 of Title 34, relating to workers' compensation; or

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91 This Act shall become effective upon its approval by the Governor or upon its becoming law
92 without such approval.

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SECTION 4.

94 All laws and parts of laws in conflict with this Act are repealed.