To protect firefighters from exposure to per- and polyfluoroalkyl substances, to establish a presumption of service connection for certain veterans exposed to such substances, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2020

Mr. Kildee (for himself, Mr. McGovern, and Ms. Slotkin) introduced the following bill; which was referred to the Committee on Veterans’ Affairs, and in addition to the Committees on Science, Space, and Technology, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect firefighters from exposure to per- and polyfluoroalkyl substances, to establish a presumption of service connection for certain veterans exposed to such substances, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
2 SECTION 1. SHORT TITLE.
3 This Act may be cited as the “Protecting Firefighters from PFAS Act”.

SEC. 2. PFAS AT FIRE TRAINING FACILITIES.

Section 203(e)(1)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(e)(1)(B)) is amended—

(1) in clause (iii), by striking “or”;

(2) in clause (iv), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(v) to remediate per- and polyfluoroalkyl substances at fire training facilities.”.

SEC. 3. GUARANTEEING EQUIPMENT SAFETY FOR FIREFIGHTERS.

(a) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY STUDY ON PER- AND POLYFLUOROALKYL SUBSTANCES IN PERSONAL PROTECTIVE EQUIPMENT WORN BY FIREFIGHTERS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall, in consultation with the Director of the National Institute for Occupational Safety and Health, commence a study of the contents and composition of new and unused personal protective equipment worn by firefighters.

(2) CONTENTS OF STUDY.—In carrying out the study required by paragraph (1), the Director of the
National Institute of Standards and Technology shall examine—

(A) the identity, prevalence, and concentration of per- and polyfluoroalkyl substances (commonly known as “PFAS”) in the personal protective equipment worn by firefighters;

(B) the conditions and extent to which per- and polyfluoroalkyl substances are released into the environment over time from the degradation of personal protective equipment from normal use by firefighters; and

(C) the relative risk of exposure to per- and polyfluoroalkyl substances faced by firefighters from—

(i) their use of personal protective equipment; and

(ii) degradation of personal protective equipment from normal use by firefighters.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Director shall submit to Congress a report describing—

(A) the findings of the Director with respect to the study carried out under paragraph (1); and
(B) recommendations on what additional research or technical improvements to personal protective equipment materials or components should be pursued to avoid unnecessary occupational exposure among firefighters to per- and polyfluoroalkyl substances through personal protective equipment.

(b) Research on Per- and Polyfluoroalkyl Substances in Personal Protective Equipment Worn by Firefighters.—

(1) In General.—Not later than 540 days after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall—

(A) issue a solicitation for research proposals to carry out the research recommendations identified in the report submitted under subsection (a)(3); and

(B) award grants to applicants that submit research proposals to develop safe alternatives to per- and polyfluoroalkyl substances in personal protective equipment.

(2) Criteria.—The Director shall select research proposals to receive a grant under paragraph (1) on the basis of merit, using criteria identified by
the Director, including the likelihood that the re-
search results will address the findings of the Direc-
tor with respect to the study conducted under sub-
section (a)(1).

(3) ELIGIBLE ENTITIES.—Any entity or group of two or more entities may submit to the Director a research proposal in response to the solicitation for research proposals under paragraph (1), including—

(A) State and local agencies;

(B) public institutions, including public in-
stitutions of higher education;

(C) private corporations; and

(D) nonprofit organizations.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Direc-
tor to carry out this subsection up to $5,000,000 for each of the 3 fiscal years beginning with the first full fiscal year following the date of enactment of this Act.

(e) AUTHORITY FOR DIRECTOR OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY TO CONSULT WITH EXPERTS ON MATTERS RELATING TO PER- AND POLYFLUOROALKYL SUBSTANCES.—In carrying out this section, the Director of the National Institute of Standards and Technology may consult with Federal
agencies, nongovernmental organizations, State and local
governments, and science and research institutions deter-
mined by the Director to have scientific or material inter-
est in reducing unnecessary occupational exposure to per-
and polyfluoroalkyl substances by firefighters.

SEC. 4. HOSPITAL CARE AND MEDICAL SERVICES FOR VET-
ERANS AND DEPENDENTS EXPOSED TO PER-
FLUOROOCTANOIC ACID AND OTHER PER-
AND POLYFLUOROALKYL SUBSTANCES.

(a) Hospital Care and Medical Services for Veterans.—

(1) In general.—Paragraph (1) of section 1710(e) of title 38, United States Code, is amended by adding at the end the following new subpara-

“(G)(i) Beginning on the date that is 90 days after the date of the enactment of this subparagraph, subject to paragraph (2), a vet-
eran who served on active duty in the Armed Forces at a covered military installation at which individuals were exposed to substances specified in clause (ii) is eligible for hospital care and medical services under subsection (a)(2)(F) for the diseases, illnesses, or condi-
tions as specified in such clause, notwith-
standing that there is insufficient medical evidence to conclude that such illness or condition is attributable to such service.

“(ii) The substances and diseases, illnesses, or conditions specified in this clause are the following:

“(I) With respect to exposure to perfluorooctanoic acid—

“(aa) diagnosed high cholesterol;
““(bb) ulcerative colitis;
““(cc) thyroid disease;
““(dd) testicular cancer;
““(ee) kidney cancer; and
““(ff) pregnancy-induced hypertension.

“(II) With respect to exposure to other per- and polyfluoroalkyl substances, any disease, illness, or condition that the Secretary of Veterans Affairs, in consultation with the Administrator of the Agency for Toxic Substances and Disease Registry of the Department of Health and Human Services, determines pursuant to the study conducted under section 316 of the National Defense Authorization Act for Fiscal
Year 2018 (Public Law 115–91) that a positive association exists between exposure to per- and polyfluoroalkyl substances and such disease, illness, or condition.

“(iii) For purposes of this subparagraph—

“(I) any service by a veteran as a member of the reserve components for a period specified by the Secretary at a covered military installation at which individuals were exposed, or suspected to be exposed, to substances specified in clause (ii) shall be treated as active duty service, notwithstanding section 101(21) of this title; and

“(II) any service by a veteran as a civilian firefighter for a period specified by the Secretary at a covered military installation at which individuals were exposed, or suspected to be exposed, to substances specified in clause (ii) shall be treated as active duty service at such installation, regardless of whether such service occurs after the date on which the veteran was discharged or released from the Armed
Forces, notwithstanding section 101(21) of this title.

“(iv) In this subparagraph, the term ‘covered military installation’ means a military installation at which individuals were exposed to perfluorooctanoic acid or other per- and polyfluoroalkyl substances, including exposure through a well that provides water for human consumption that is contaminated with such substances.”.

(2) LIMITATION.—Paragraph (2)(B) of such section is amended by striking “or (F)” and inserting “(F), or (G)”.

(b) CIVILIAN FIREFIGHTERS AND FAMILY MEMBERS OF VETERANS.—

(1) IN GENERAL.—Subchapter VIII of chapter 17 is amended by adding at the end the following new section:

“§1787A. Health care of civilian firefighters and family members of veterans stationed at certain military installations

“(a) In General.—(1) Beginning on the date that is 90 days after the date of the enactment of this section, subject to subsection (b), an individual described in paragraph (2) shall be eligible for hospital care and medical
services furnished by the Secretary for any disease, illness, or condition for which a veteran may receive hospital care and medical services under section 1710(e)(1)(G)(ii) of this title, notwithstanding that there is insufficient medical evidence to conclude that such disease, illness, or condition is proximately caused, as the case may be, by—

“(A) the location of the residence as specified in paragraph (2)(A); or

“(B) the nature of the service as a firefighter as specified in paragraph (2)(B).

“(2) An individual described in this paragraph is any of the following:

“(A) A family member of a veteran described in clause (i) of section 1710(e)(1)(G) of this title (or who would be so described but for the condition by which the individual was discharged or released from the Armed Forces) who resided at a military installation covered by such clause or who was in utero while the mother of such family member resided at such location.

“(B) An employee of the Federal Government who—

“(i) served as a civilian firefighter at such a military installation; and
“(ii) is not covered by such section 1710(e)(1)(G).

“(b) LIMITATIONS.—(1) The Secretary may only furnish hospital care and medical services under subsection (a) to the extent and in the amount provided in advance in appropriations Acts for such purpose.

“(2) Hospital care and medical services may not be furnished under subsection (a) for a disease, illness, or condition of an individual that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than the residence or employment of the individual as specified in that subsection.

“(3) The Secretary may provide reimbursement for hospital care or medical services provided to an individual under this section only after the individual or the provider of such care or services has exhausted without success all claims and remedies reasonably available to the individual or provider against a third party (as defined in section 1725(f) of this title) for payment of such care or services, including with respect to health-plan contracts (as defined in such section).”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended
by inserting after the item relating to section 1787 the following new item:

“1787A. Health care of civilian firefighters and family members of veterans stationed at certain military installations.”.

(c) Annual Reports.—

(1) In general.—During the three-year period beginning in the year in which the study conducted under section 316 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91) is submitted to Congress, the Secretary of Veterans Affairs shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives an annual report on the care and services provided under sections 1710(e)(1)(G) and 1787A of title 38, United States Code (as added by subsections (a) and (b)(1), respectively).

(2) Elements.—Each report under paragraph (1) shall set forth the following:

(A) The number of veterans, civilian firefighters, and family members provided hospital care and medical services under the provisions of law specified in paragraph (1) during the period covered by the report.

(B) The illnesses, conditions, and disabilities for which care and services have been pro-
vided such veterans, civilian firefighters, and family members under such provisions of law during that period.

(C) The number of veterans, civilian firefighters, and family members who applied for care and services under such provisions of law during that period but were denied, including information on the reasons for such denials.

(D) The number of veterans, civilian firefighters, and family members who applied for care and services under such provisions of law and are awaiting a decision from the Secretary on eligibility for such care and services as of the date of such report.

(3) VETERAN DEFINED.—In this subsection, the term “veteran” includes a former member of the reserve components of the Armed Forces covered by such section 1710(e)(1)(G).

SEC. 5. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN VETERANS EXPOSED TO PERFLUORO-OCTANOIC ACID OR OTHER PER- AND POLY-FLUOROALKYL SUBSTANCES.

(a) IN GENERAL.—Chapter 11 of title 38, United States Code, is amended by inserting after section 1116 the following new section:
§ 1116A. Presumption of service connection for certain veterans exposed to perfluorooctanoic acid or other per- and polyfluoroalkyl substances

“(a) Presumption of Service Connection.—(1) For the purposes of section 1110 of this title, and subject to section 1113 of this title, each disease or illness specified in subsection (b) that becomes manifest in a veteran described in paragraph (2) shall be considered to have been incurred or aggravated in the line of duty in the active military, naval, or air service, notwithstanding that there is no record of evidence of such disease or illness during the period of such service.

“(2) A veteran described in this paragraph is a veteran who, during active military, naval, or air service, served at a military installation at which individuals were exposed to perfluorooctanoic acid or other per- and polyfluoroalkyl substances, including exposure through a well that provides water for human consumption that is contaminated with such substances.

“(b) Diseases or Illnesses.—A disease or illness specified in this subsection is any of the following:

“(1) With respect to exposure to perfluorooctanoic acid—

“(A) diagnosed high cholesterol;

“(B) ulcerative colitis;
“(C) thyroid disease;
“(D) testicular cancer;
“(E) kidney cancer; and
“(F) pregnancy-induced hypertension.

“(2) With respect to exposure to other per- and polyfluoroalkyl substances, any other disease, illness, or condition that the Secretary of Veterans Affairs, in consultation with the Administrator of the Agency for Toxic Substances and Disease Registry of the Department of Health and Human Services, determines pursuant to the study conducted under section 316 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91) that a positive association exists between exposure to per- and polyfluoroalkyl substances and such disease or illness.

“(c) ACTIVE MILITARY, NAVAL, OR AIR SERVICE.—For purposes of this section, any service by a member of the reserve components for a period specified by the Secretary at a military installation described in subsection (a)(2) shall be treated as active military, naval, or air service, notwithstanding section 101(24) of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting
after the item relating to section 1116 the following new item:

“1116A. Presumption of service connection for certain veterans exposed to perfluorooctanoic acid or other per- and polyfluoroalkyl substances.”.