

March 15, 2023

AS PREPARED FOR DELIVERY

Chair Lyons, Vice Chair Weeks, and Members of the Senate Committee on Health and Welfare,

Good morning. For the record, I am Chelsea Murtha, Director of Sustainability at the American Apparel & Footwear Association (AAFA). On behalf of AAFA, thank you for the opportunity to provide testimony on S. 25 – An act relating to regulating cosmetic and menstrual products containing certain chemicals and chemical classes and textiles and athletic turf fields containing perfluoroalkyl and polyfluoroalkyl substances.

AAFA is the national trade association representing apparel, footwear and other sewn products companies, and their suppliers, which compete in the global market. Representing more than 1,000 world famous name brands, including several brands and retailers in Vermont, AAFA is the trusted public policy and political voice of the apparel and footwear industry, its management and shareholders, its more than three million U.S. workers, and its contribution of \$470 billion in annual U.S. retail sales. AAFA approaches all of its work through the lens of purpose-driven leadership in a manner that supports each member's ability to build and sustain inclusive and diverse cultures, meet and advance ESG goals, and draw upon the latest technology.

With our members engaged in the production and sale of clothing and footwear, we are on the front lines of product safety. It is our members who design and execute the quality and compliance programs that stitch product safety into every garment and shoe we make. In fact, many of our members have already announced their intentions to phase out the use of intentionally added PFAS in their general wearing apparel in advance of the bill's 2026 deadline and our most recent update to our open-industry [Restricted Substances List](#) included PFAS as a class of chemicals for general wearing apparel the first time.

AAFA and our members are proud advocates for regulatory requirements that can effectively protect human health and the environment. Regulations that are harmonized, enforceable, and science based play a critical role in furthering our industry's efforts. In that vein, we appreciate the committee's interest in this topic, and recommend the committee make the following amendments to the legislation, which as you heard, the Vermont Outdoor Business Alliance also supports:

First, Section 3 of the legislation should be amended to clarify the definition of "intentionally added PFAS" by establishing a science-based testing threshold. We recommend this testing threshold be set at 100 parts per million (ppm) for total organic fluorine (TOF) for our products. According to our third-party laboratory members, an 100ppm TOF threshold is achievable using currently available testing methods, avoids capturing inadvertent PFAS contamination from buildup in the environment (a concentration below 100 TOF would confer no technical or functional effect and therefore there would be no point to added PFAS at this level), and aligns with requirements established in California (see:

[AB 1817](#) and [AB 652](#)). Harmonization on this point provides a clear, consistent, and science-based target for manufacturers that will facilitate compliance.

The effective date should be delayed to January 1, 2028 for outdoor apparel for severe wet conditions. Efforts to phase out PFAS use require researching and developing potential alternative materials; evaluating performance characteristics and consumer acceptance; ensuring that alternative materials do not have unintended impacts on workers, consumers, or the environment; commercializing new products; and transitioning existing inventories and product portfolios. While this work is actively underway, time is needed to conduct this process effectively for outdoor apparel for severe wet conditions. While our members are reporting finding acceptable PFAS-alternatives that provide sufficient water resistance for regular consumer products, we have yet to hear that an alternative is available that would provide the necessary protection required in extended, and extreme wet outdoor conditions. More time is need to complete the transition for this specific subcategory of products. Both [California](#) and [New York](#) have recognized this fact in their own legislation that prohibits the use of intentionally added PFAS in apparel products and we urge you to do the same.

The legislation should include a sell-through provision, allowing companies to sell off stock manufactured before the effective date. Establishing a strict effective date without allowing for the sale of items previously manufactured will cause these items to be disposed of immediately – likely sending them straight to landfills where the PFAS will begin to leach. If already manufactured garments are instead allowed to be used and worn, they will be disposed of more gradually – preventing an immediate spike in pollution and providing additional time for technologies to remove PFAS contamination to be developed and implemented.

Finally, the legislation should require the publication of implementing regulations 12 months in advance of the effective date and if the final regulations are not available, the effective date must be pushed back to 12 months after final regulations are promulgated. Again, manufacturers, retailers, and brands need certainty about new requirements and time to ensure they can comply. Even when legislation is harmonized in text, we know that interpretation and enforcement differs between states. Ensuring brands and retailers have year to prepare to meet new requirements will help prevent confusion and allow manufacturers, retailers, and brands to be confident they can comply before the law goes into effect.

We look forward to continuing to work with Vermont on the regulation of substances in consumer products for the benefit of consumer product safety and public health. In the meantime, our members continue to design and execute the quality and compliance programs that emphasize product safety for every individual who steps into our apparel and footwear products.

Thank you for your time.