

1 H.560

2 Introduced by Representatives Deen of Westminster and Sullivan of

3 Burlington

4 Referred to Committee on

5 Date:

6 Subject: Conservation and development; hazardous waste; household

7 hazardous substances

8 Statement of purpose of bill as introduced: This bill proposes, beginning on
9 January 15, 2020, to require a manufacturer of a household product containing
10 a hazardous substance to register on or before January 15 of each year each
11 household product containing a hazardous substance with the Secretary of
12 Natural Resources prior to sale or distribution. A manufacturer registering a
13 household product containing a hazardous substance shall pay an annual fee of
14 \$100.00 for each registered household product containing a hazardous
15 substance. The fees collected shall be deposited in the Waste Management
16 Assistance Fund for distribution to solid waste districts and municipalities to
17 administer and operate household hazardous waste collection programs in the
18 State.

19 An act relating to household products containing hazardous substances

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. FINDINGS

3 The General Assembly finds that:

4 (1) Thousands of household products sold in the State contain
5 substances designated as hazardous under State or federal law.

6 (2) Vermont's hazardous waste regulations establish specific
7 requirements for the management of hazardous waste, including a prohibition
8 on disposal in landfills, but Vermont's hazardous waste regulations do not
9 apply to leftover household products that contain corrosive, toxic, ignitable, or
10 reactive ingredients.

11 (3) Leftover household products, known as household hazardous waste
12 (HHW), are regulated through a requirement that municipal solid waste
13 management entities (SWMEs) include provisions in solid waste
14 implementation plans for the management and diversion of unregulated
15 hazardous waste. The State solid waste management plan also requires the
16 SWMEs to each hold four HHW collection events every year.

17 (4) Many SWMEs offer much more than four HHW collection events
18 each year, and five of the SWMEs have established permanent facilities for the
19 regular collection of HHW.

20 (5) HHW collection events or permanent facilities are expensive to
21 operate and SWMEs spend approximately \$1.6 million a year to manage

1 HHW, costs that are subsequently passed on to the residents of Vermont
2 through taxes or disposal charges.

3 (6) Despite the diligent efforts of the SWMEs to divert HHW from
4 municipal solid waste disposed of in landfills, it is estimated that only
5 3.8 percent of residents statewide participate in HHW collection events or
6 dispose of HHW at HHW permanent facilities.

7 (7) As a result of the failure to divert HHW, it is estimated that 640 tons
8 or more per year of HHW are being disposed of in landfills as municipal solid
9 waste.

10 (8) There is general agreement among the SWMEs and the Agency of
11 Natural Resources that additional collection sites and educational and
12 informational activities are necessary to capture more of the HHW being
13 disposed of in landfills, but funding constraints are a current barrier to new
14 collection sites and educational and informational activities.

15 (9) HHW released into the environment can contaminate air,
16 groundwater, and surface waters, thereby posing a significant threat to the
17 environment and public health.

18 (10) To improve diversion of HHW from landfills, reduce the financial
19 burden on SWMEs and taxpayers of managing HHW, and lessen the
20 environmental and public health risk posed by improperly disposed of HHW,
21 the State should require the manufacturers of household products containing a

1 hazardous substance to register the products sold in the State and pay a fee that
2 will be used to fund improved management of HHW in the State.

3 Sec. 2. 10 V.S.A. chapter 159, subchapter 5 is added to read:

4 Subchapter 5. Household Products Containing Hazardous Substances

5 § 6691. DEFINITIONS

6 As used in this subchapter:

7 (1) “Agency” means the Agency of Natural Resources.

8 (2) “Commission” means the federal Consumer Product Safety

9 Commission.

10 (3) “Consumer product” means any product that is regularly used or
11 purchased to be used for personal, family, or household purposes.

12 (4) “Corrosive” means any substance that in contact with living tissue
13 will cause destruction of tissue by chemical action. “Corrosive” shall not refer
14 to action on inanimate surfaces.

15 (5) “Extremely flammable,” “flammable,” and “combustible” shall have
16 the same meanings as set forth in 16 C.F.R. § 1500.3(c)(6).

17 (6)(A) “Hazardous substance” means:

18 (i) Any substance or mixture of substances that is toxic, corrosive,
19 an irritant, a strong sensitizer, flammable or combustible, or generates pressure
20 through decomposition, heat, or other means, if the substance or mixture of
21 substances may cause substantial personal injury or substantial illness during

1 or as a proximate result of any customary or reasonably foreseeable handling
2 or use, including reasonably foreseeable ingestion by children.

3 (ii) Any substance that the Commission by regulation determines
4 to be a hazardous substance.

5 (iii) Any radioactive substance that the Commission determines by
6 regulation is sufficiently hazardous to require labeling to protect public health.

7 (iv) Any article that is not itself a pesticide within the meaning of
8 the Federal Insecticide, Fungicide, and Rodenticide Act but that is a hazardous
9 substance by reason of bearing or containing the pesticide.

10 (B) “Hazardous substance” shall not mean:

11 (i) a pesticide subject to the Federal Insecticide, Fungicide, and
12 Rodenticide Act;

13 (ii) a food, drug, or cosmetic subject to the Federal Food, Drug,
14 and Cosmetic Act;

15 (iii) a substance intended for use as a fuel when stored in a 20-
16 pound cylinder or other container and used in the heating, cooking, or
17 refrigeration system of a house; or

18 (iv) any source material, special nuclear material, or by-product
19 material as defined in the Atomic Energy Act of 1954, as amended, and
20 regulations issued under that act by the Atomic Energy Commission.

21 (7) “Highly toxic” means any substance that:

1 (A) produces death within 14 days in one-half or more than one-half
2 of a group of 10 or more laboratory white rats, each weighing between 200 and
3 300 grams, at a single dose of 50 milligrams or less per kilogram of body
4 weight, when orally administered; or

5 (B) produces death within 14 days in one-half or more than one-half
6 of a group of 10 or more laboratory white rats, each weighing between 200 and
7 300 grams, when inhaled continuously for a period of one hour or less at an
8 atmospheric concentration of 200 parts per million by volume or less of gas or
9 vapor or two milligrams per liter by volume or less of mist or dust, provided
10 that the concentration is likely to be encountered by humans when the
11 substance is used in any reasonably foreseeable manner.

12 (8) “Household hazardous waste” shall have the same meaning as
13 provided in section 6602 of this title.

14 (9) “Household product containing a hazardous substance” means a
15 consumer product that includes a hazardous substance or that would be a
16 household hazardous waste if discarded. “Household product containing a
17 hazardous substance” shall not mean any of the following:

18 (A) architectural paint regulated under chapter 159, subchapter 4 of
19 this title;

20 (B) covered electronic devices regulated under chapter 166 of this
21 title;

1 (C) mercury-containing lamps regulated under chapter 164A of this
2 title;

3 (D) primary batteries regulated under chapter 168 of this title; or

4 (E) propane cylinders or tanks of more than one pound.

5 (10) “Irritant” means any substance, other than a corrosive, that on
6 immediate, prolonged, or repeated contact with normal living tissue will
7 induce a local inflammatory reaction.

8 (11) “Manufacturer” means a person who:

9 (A) manufactures or manufactured a household product containing a
10 hazardous substance under its own brand or label for sale in the State;

11 (B) sells in the State under its own brand or label a household
12 product containing a hazardous substance produced by another supplier;

13 (C) owns a brand that it licenses or licensed to another person for use
14 on a household product containing a hazardous substance sold in the State;

15 (D) imports into the United States for sale in the State a household
16 product containing a hazardous substance manufactured by a person without a
17 presence in the United States; or

18 (E) manufactures a household product containing a hazardous
19 substance for sale in the State without affixing a brand name.

20 (12) “Radioactive substance” means a substance that emits ionizing
21 radiation.

1 (13) “Strong sensitizer” means a substance that will cause on normal
2 living tissue through an allergic or photodynamic process a hypersensitivity
3 that becomes evident on reapplication of the same substance and that is
4 designated as a strong sensitizer by the Commission.

5 (14) “Toxic” means any substance, other than a radioactive substance,
6 that has the capacity to produce personal injury or illness to humans through
7 ingestion, inhalation, or absorption through any surface of the body.

8 § 6692. REGISTRATION OF HOUSEHOLD PRODUCTS CONTAINING A
9 HAZARDOUS SUBSTANCE

10 (a) Registration required; prohibition. A manufacturer shall not sell, offer
11 for sale, distribute, or deliver to a retailer for subsequent sale a household
12 product containing a hazardous substance in the State unless the manufacturer,
13 on or before January 15 each year, registers with the Secretary of Natural
14 Resources each household product containing a hazardous substance when the
15 household product has a unique universal product code or European article
16 number. A manufacturer initiating a business in the State shall file the
17 registration required under this section prior to selling, offering for sale,
18 distributing, or delivering a household product containing a hazardous
19 substance in the State. A manufacturer who annually sells, offers for sale,
20 distributes, or delivers in or into the State a household product containing a

1 hazardous substance with a total retail value of less than \$5,000.00 shall be
2 exempt from the requirements of this subchapter.

3 (b) Registration information. The registration required under subsection (a)
4 of this section shall include:

5 (1) the name and address of the manufacturer registering the household
6 product containing a hazardous substance and the name and address of the
7 manufacturer whose name will appear on the label of the household product
8 containing a hazardous substance, if other than the registrant;

9 (2) the name of the household product containing a hazardous substance
10 and its universal product code or European article number;

11 (3) the name of the hazardous substance in the household product
12 containing a hazardous substance;

13 (4) a complete copy of any labeling that accompanies the household
14 product containing a hazardous substance; and

15 (5) additional information required by the Secretary by rule.

16 (c) Registration fee; disposition. A manufacturer registering a household
17 product containing a hazardous substance shall pay an annual fee of \$100.00
18 for each household product containing a hazardous substance registered. The
19 fees collected shall be deposited in the Waste Management Assistance Fund.

1 § 6693. AGENCY RESPONSIBILITIES

2 (a) Website of registered products. Within 60 days of the first annual
3 registration required under this subchapter, the Agency shall develop a website
4 of registered household products containing a hazardous substance. The
5 Agency shall update the website when new household products containing a
6 hazardous substance are registered.

7 (b) Registration enforcement. The Agency shall enforce the requirements
8 for registration under its authority set forth in chapter 201 of this title. Agency
9 enforcement shall include inspections of retailers to determine if household
10 products containing a hazardous substance are properly registered in the State.
11 A retailer shall not be subject to enforcement for sale of an unregistered
12 household product containing a hazardous substance.

13 (c) Disbursements of funds. The Agency shall disburse funds from the
14 Waste Management Assistance Fund under 24 V.S.A. § 6618 to solid waste
15 districts and municipalities for the costs associated with constructing,
16 administering, and operating household hazardous waste collection programs.

17 § 6694. RULEMAKING; INFORMATION COLLECTION

18 (a) The Secretary may adopt rules to implement the requirements of this
19 subchapter. The rules may include exemptions from the registration
20 requirements of section 6692 of this title.

1 (b) The Secretary may require a manufacturer submitting a registration to
2 submit additional information related to the product, including information
3 about the use of the product, a universal product code for the product, and any
4 potential health effects associated with the product.

5 Sec. 3. 10 V.S.A. § 6618 is amended to read:

6 § 6618. WASTE MANAGEMENT ASSISTANCE FUND

7 (a) There is hereby created in the State Treasury a fund to be known as the
8 Waste Management Assistance Fund, to be expended by the Secretary of
9 Natural Resources. The Fund shall have ~~three~~ four accounts: one for Solid
10 Waste Management Assistance, one for Hazardous Waste Management
11 Assistance, ~~and~~ one for Electronic Waste Collection and Recycling Assistance,
12 and one for Household Products Containing Hazardous Substances. The
13 Hazardous Waste Management Assistance Account shall consist of a
14 percentage of the tax on hazardous waste under the provisions of 32 V.S.A.
15 chapter 237, as established by the Secretary, the toxics use reduction fees
16 under subsection 6628(j) of this title, and appropriations of the General
17 Assembly. In no event shall the amount of the hazardous waste tax which is
18 deposited to the Hazardous Waste Management Assistance Account exceed 40
19 percent of the annual tax receipts. The Solid Waste Management Assistance
20 Account shall consist of the franchise tax on waste facilities assessed under the
21 provisions of 32 V.S.A. chapter 151, subchapter 13, and appropriations of the

1 General Assembly. The Electronic Waste Collection and Recycling Account
2 shall consist of the program and implementation fees required under section
3 7553 of this title. The Household Products Containing Hazardous Substances
4 Account shall consist of the hazardous substances registration fees under
5 section 6692 of this title. All balances in the Fund accounts at the end of any
6 fiscal year shall be carried forward and remain a part of the Fund accounts,
7 except as provided in subsection (e) of this section. Interest earned by the
8 Fund shall be deposited into the appropriate Fund account. Disbursements
9 from the Fund accounts shall be made by the State Treasurer on warrants
10 drawn by the Commissioner of Finance and Management.

11 * * *

12 (f) The Secretary shall authorize disbursements from the Household
13 Products Containing Hazardous Substances Account for the purpose of
14 enhancing the management of household products containing hazardous
15 substances in accordance with subchapter 5 of this chapter, including
16 disbursements for:

17 (1) All costs incurred by solid waste management entities and
18 municipalities to construct, administer, and operate household hazardous waste
19 collection programs, including one-day collection events and permanent
20 collection programs. All costs include the construction of necessary
21 infrastructure, maintenance, operating costs, transportation, disposal, and

1 outreach and education. The Secretary annually shall allocate at least 50
2 percent of the hazardous substances registration fees collected under section
3 6692 of this title for the purposes of this subdivision.

4 (2) The costs of the Agency of Natural Resources in administering and
5 enforcing the registration requirements for household products containing a
6 hazardous substance under chapter 159, subchapter 5 of this title.

7 Sec. 4. 10 V.S.A. § 6621a(a) is amended to read:

8 (a) In accordance with the following schedule, no person shall knowingly
9 dispose of the following materials in solid waste or in landfills:

10 * * *

11 (5) Paint (whether ~~water-based~~ water-based or ~~oil-based~~ oil-based), paint
12 thinner, paint remover, stains, and varnishes. This prohibition shall not apply
13 to solidified ~~water-based~~ water-based paint in quantities of less than one gallon,
14 nor shall this prohibition apply to solidified ~~water-based~~ water-based paint in
15 quantities greater than one gallon if those larger quantities are from a waste
16 stream that has been subject to an effective paint reuse program, as determined
17 by the Secretary.

18 (6) Nickel-cadmium batteries, small sealed lead acid batteries,
19 nonconsumer mercuric oxide batteries, and any other battery added by the
20 Secretary by rule.

21 * * *

1 (8) Banned electronic devices. After January 1, 2011; computers;
2 peripherals; computer monitors; cathode ray tubes; televisions; printers;
3 personal electronics such as personal digital assistants and personal music
4 players; electronic game consoles; printers; fax machines; wireless telephones;
5 telephones; answering machines; videocassette recorders; digital versatile disc
6 players; digital converter boxes; stereo equipment; and power supply cords (as
7 used to charge electronic devices).

8 * * *

9 (12) Household products containing hazardous substances after
10 January 15, 2020.

11 Sec. 5. EFFECTIVE DATE; IMPLEMENTATION

12 This act shall take effect on July 1, 2018, provided that the annual
13 registration required under 10 V.S.A. § 6692 shall not be required until
14 January 15, 2020.