

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resources, Fish, and Wildlife to which was  
3 referred House Bill No. 560 entitled “An act relating to household products  
4 containing hazardous substances” respectfully reports that it has considered the  
5 same and recommends that the bill be amended by striking out all after the  
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. FINDINGS

8 The General Assembly finds that:

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

11 (2) Vermont’s hazardous waste regulations establish specific  
12 requirements for the management of hazardous waste, including a prohibition  
13 on disposal in landfills, but Vermont’s hazardous waste regulations do not  
14 apply to leftover household products that contain corrosive, toxic, ignitable, or  
15 reactive ingredients.

16 (3) Leftover household products, known as household hazardous waste  
17 (HHW), are regulated through a requirement that municipal solid waste  
18 management entities (SWMEs) include provisions in solid waste  
19 implementation plans for the management and diversion of unregulated  
20 hazardous waste. The State solid waste management plan also will require the  
21 SWMEs to each hold four HHW collection events every year.

1           (4) Many SWMEs already offer more than four HHW collection events  
2           each year, and five of the SWMEs have established permanent facilities for the  
3           regular collection of HHW.

4           (5) HHW collection events or permanent facilities are expensive to  
5           operate and SWMEs spend approximately \$1.6 million a year to manage  
6           HHW, costs that are subsequently passed on to the residents of Vermont  
7           through taxes or disposal charges.

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

10           (7) 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.

14           (8) Funding constraints are a current barrier to new collection sites and  
15           educational and informational activities.

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

19           (10) To improve diversion of HHW from landfills, reduce the financial  
20           burden on SWMEs and taxpayers of managing HHW, and lessen the  
21           environmental and public health risk posed by improperly disposed of HHW,

1 the Secretary of Natural Resources should convene the Working Group on  
2 Household Hazardous Waste to recommend how best to manage and fund  
3 HHW in the State.

4 (11) If the Working Group on Household Hazardous Waste fails to  
5 provide recommendations, the State should implement a program to require the  
6 manufacturers of household products containing a hazardous substance to  
7 register their products sold in the State and pay a fee that will be used to fund  
8 improved management of HHW in the State.

9 Sec. 2. AGENCY OF NATURAL RESOURCES WORKING GROUP ON  
10 HOUSEHOLD HAZARDOUS WASTE

11 (a) The Secretary of Natural Resources shall convene the Working Group  
12 on Household Hazardous Waste to review alternatives for the management and  
13 funding of household hazardous waste in the State. It is the intent of the  
14 General Assembly that the Working Group will involve a representative group  
15 of stakeholders. On or before January 1, 2020, the Secretary of Natural  
16 Resources shall submit to the House Committee on Natural Resources, Fish,  
17 and Wildlife and the Senate Committee on Natural Resources and Energy a  
18 report recommending how the State should manage and fund household  
19 hazardous waste. The report shall include:

20 (1) a recommended method or system for collecting household  
21 hazardous waste;

1           (2) a recommended method or system for regulating and funding  
2           household hazardous waste, including a summary of the basis for the Working  
3           Group’s recommendation;

4           (3) a review of the alternatives evaluated, which shall include existing  
5           Vermont Extended Producer Responsibility (EPR) programs, other EPR  
6           programs, fee per product programs, and the Canadian models;

7           (4) a summary of how the recommended method or system would be  
8           implemented and funded, including the role that municipalities and the solid  
9           waste management entities would have in the management of household  
10          hazardous waste;

11          (5) a summary of the role of the Agency of Natural Resources in  
12          implementing the recommended method or system;

13          (6) an estimate of the cost to implement the recommended method or  
14          system for managing household hazardous waste; and

15          (7) statutory changes necessary to implement the recommended method  
16          or system for managing and funding household hazardous waste.

17          (b) On or before January 1, 2019, the Secretary of Natural Resources shall  
18          submit an interim report to the House Committee on Natural Resources, Fish,  
19          and Wildlife and the Senate Committee on Natural Resources and Energy  
20          regarding the progress of the Working Group on Household Hazardous Waste  
21          in meeting the Group’s charge under subsection (a). If the Group has

1 completed its charge under subsection (a) of this section, the Secretary of  
2 Natural Resources shall identify the interim report as the final report for the  
3 purposes of this section.

4 (c) As used in this section, “household hazardous waste” shall have the  
5 same meaning as set forth in 10 V.S.A. § 6602, and shall include waste from  
6 conditionally exempt generators.

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

8 Subchapter 5. Household Products Containing Hazardous Substances

9 § 6691. DEFINITIONS

10 As used in this subchapter:

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

12 (2) “Commission” means the federal Consumer Product Safety  
13 Commission.

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

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

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

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

1                    (i) any substance or mixture of substances that is toxic, corrosive,  
2                    an irritant, a strong sensitizer, flammable or combustible, or generates pressure  
3                    through decomposition, heat, or other means, if the substance or mixture of  
4                    substances may cause substantial personal injury or substantial illness during  
5                    or as a proximate result of any customary or reasonably foreseeable handling  
6                    or use, including reasonably foreseeable ingestion by children;

7                    (ii) any substance that the Commission by regulation determines  
8                    to be a hazardous substance;

9                    (iii) any radioactive substance that the Commission determines by  
10                   regulation is sufficiently hazardous to require labeling to protect public health;  
11                   or

12                   (iv) any article that is not itself a pesticide within the meaning of  
13                   the Federal Insecticide, Fungicide, and Rodenticide Act but that is a hazardous  
14                   substance by reason of bearing or containing the pesticide.

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

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

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

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

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

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

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

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

19                   (8) “Household hazardous waste” shall have the same meaning as set  
20                   forth in section 6602 of this title.

1           (9) “Household product containing a hazardous substance” means a  
2           consumer product that includes a hazardous substance or that would be a  
3           household hazardous waste. “Household product containing a hazardous  
4           substance” shall not mean any of the following:

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

7                   (B) covered electronic devices regulated under chapter 166 of this  
8           title;

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

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

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

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

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

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

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



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

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

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

8           (12) “Radioactive substance” means a substance that emits ionizing  
9           radiation.

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

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

17          § 6692. REGISTRATION OF HOUSEHOLD PRODUCTS CONTAINING A

18                   HAZARDOUS SUBSTANCE

19           (a) Registration required; prohibition.

20           (1) A manufacturer shall not sell, offer for sale, distribute, or deliver to a  
21           retailer for subsequent sale a household product containing a hazardous

1 substance in the State unless the manufacturer, on or before January 15 each  
2 year, registers with the Secretary of Natural Resources all of the household  
3 products containing a hazardous substance that it sells, distributes, or delivers  
4 in the State when the household product has a unique universal product code or  
5 European article number.

6 (2) A manufacturer initiating a business in the State shall file the  
7 registration required under this section prior to selling, offering for sale,  
8 distributing, or delivering a household product containing a hazardous  
9 substance in the State.

10 (3) A manufacturer who annually sells, offers for sale, distributes, or  
11 delivers in or into the State a household product containing a hazardous  
12 substance with a total annual retail sales of less than \$5,000.00 shall be exempt  
13 from the requirements of this subchapter.

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

16 (1) the name and address of the manufacturer that sells, distributes, or  
17 delivers household products containing a hazardous substance in the State,  
18 including the name and address of the manufacturer whose name will appear  
19 on the label of the household product containing a hazardous substance, if  
20 other than the registrant;

1           (2) the name of all of the household products containing a hazardous  
2           substance that the manufacturer sells, distributes, or delivers in the State,  
3           including the universal product code or European article number for each  
4           product;

5           (3) the name of the hazardous substance in each of the household  
6           products containing a hazardous substance that the manufacturer lists on the  
7           registration; and

8           (4) additional information required by the Secretary by rule.

9           (c) Authority for additional information. The Secretary may require a  
10          manufacturer submitting a registration to submit additional information related  
11          to a product, including any potential health effects associated with a product.

12          (d) Registration fee; disposition. A manufacturer registering a household  
13          product containing a hazardous substance shall pay an annual fee of \$100.00  
14          for the registration of all of the products it sells, distributes, or delivers in the  
15          State. The fees collected shall be deposited in the Waste Management  
16          Assistance Fund.

17          § 6693. AGENCY RESPONSIBILITIES

18          (a) Registration enforcement. The Agency shall enforce the requirements  
19          for registration under its authority set forth in chapter 201 of this title. Agency  
20          enforcement shall include inspections of retailers to determine if household  
21          products containing a hazardous substance are properly registered in the State.

1 A retailer shall not be subject to enforcement for sale of an unregistered  
2 household product containing a hazardous substance.

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

7 Sec. 4. 10 V.S.A. § 6618 is amended to read:

8 § 6618. WASTE MANAGEMENT ASSISTANCE FUND

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

1 Assistance Account shall consist of the franchise tax on waste facilities  
2 assessed under the provisions of 32 V.S.A. chapter 151, subchapter 13; and  
3 appropriations of the General Assembly. The Electronic Waste Collection and  
4 Recycling Account shall consist of the program and implementation fees  
5 required under section 7553 of this title. The Household Products Containing  
6 Hazardous Substances Account shall consist of the registration fees assessed  
7 under section 6692 of this title. All balances in the Fund accounts at the end of  
8 any fiscal year shall be carried forward and remain a part of the Fund accounts,  
9 except as provided in subsection (e) of this section. Interest earned by the  
10 Fund shall be deposited into the appropriate Fund account. Disbursements  
11 from the Fund accounts shall be made by the State Treasurer on warrants  
12 drawn by the Commissioner of Finance and Management.

13 \* \* \*

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

19 (1) All costs incurred by solid waste management entities and  
20 municipalities to construct, administer, and operate household hazardous waste  
21 collection programs, including one-day collection events and permanent

1 collection programs. All costs include the construction of necessary  
2 infrastructure, maintenance, operating costs, transportation, disposal, and  
3 outreach and education. The Secretary annually shall allocate at least 50  
4 percent of **the registration fees** collected under section 6692 of this title for the  
5 purposes of this subdivision.

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

9 Sec. 5. 10 V.S.A. § 6621a(a) is amended to read:

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

12 \* \* \*

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

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

4 \* \* \*

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

12 \* \* \*

13 (12) Household products containing hazardous substances after  
14 January 15, 2021.

15 Sec. 6. EFFECTIVE DATE; IMPLEMENTATION

16 (a) This section and Secs. 1 (findings) and 2 (ANR Working Group on  
17 Household Hazardous Waste) shall take effect on passage.

18 (b) Secs. 3-5 (registration of household products containing hazardous  
19 substances) shall take effect on January 1, 2021, provided that the annual  
20 registration required under 10 V.S.A. § 6692 shall not be required until  
21 July 15, 2021.

1

2 (Committee vote: \_\_\_\_\_)

3

\_\_\_\_\_

4

Representative \_\_\_\_\_

5

FOR THE COMMITTEE