

1 H.721

2 Introduced by Representatives Dolan of Waitsfield, Lefebvre of Newark,
3 Squirrell of Underhill, Bates of Bennington, Brumsted of
4 Shelburne, Carroll of Bennington, Colston of Winooski, Durfee
5 of Shaftsbury, Fegard of Berkshire, Goslant of Northfield, Hill
6 of Wolcott, Hooper of Burlington, James of Manchester, Jerome
7 of Brandon, Killacky of South Burlington, LaLonde of South
8 Burlington, Morgan of Milton, Nicoll of Ludlow, O'Brien of
9 Tunbridge, Ode of Burlington, Page of Newport City, Pajala of
10 Londonderry, Rachelson of Burlington, Ralph of Hartland,
11 Savage of Swanton, Scheu of Middlebury, Shaw of Pittsford,
12 Sheldon of Middlebury, Sullivan of Burlington, Till of Jericho,
13 Townsend of South Burlington, Walz of Barre City, Webb of
14 Shelburne, White of Hartford, and Yantachka of Charlotte

15 Referred to Committee on

16 Date:

17 Subject: Health; public health; class B firefighting foam; perfluoroalkyl and
18 polyfluoroalkyl substances

19 Statement of purpose of bill as introduced: This bill proposes to impose
20 restrictions on the use, manufacturer, sale, and distribution of class B
21 firefighting foam containing perfluoroalkyl and polyfluoroalkyl substances.

1 An act relating to restrictions on class B firefighting foam containing
2 perfluoroalkyl and polyfluoroalkyl substances

3 Sec. 1. FINDINGS

4 It is the finding of the General Assembly that:

5 (1) PFAS were used in industrial manufacturing and in consumer
6 products for many years to produce goods that resist heat, oil, stains, grease,
7 and water. Some consumer products may still contain PFAS, including certain
8 firefighting foam.

9 (2) One predominant type of class B foam is synthetic and contains
10 PFAS.

11 (3) Exposure of some PFAS pose potential public and environmental
12 health and safety risks even at very low contamination levels. According to
13 the Vermont Department of Health, exposure to PFAS has been associated
14 with numerous negative health consequences, including inhibiting growth,
15 learning, and certain behavior of infants and older children; lowering a
16 person's chance of getting pregnant; interfering with the body's natural
17 hormones; increasing cholesterol levels; affecting the immune system; and
18 increasing the risk of cancer.

19 Sec. 2. 18 V.S.A. chapter 32A is added to read:

20 CHAPTER 32A. FIREFIGHTING AGENTS AND EQUIPMENT

21 § 1661. DEFINITIONS

22 As used in this chapter:

1 (1) “Class B firefighting foam” means chemical foams designed for
2 flammable liquid fires.

3 (2) “Department” means the Vermont Department of Health.

4 (3) “Personal protective equipment” means clothing designed, intended,
5 or marketed to be worn by firefighting personnel in the performance of their
6 duties, designed with the intent for use in fire and rescue activities, including
7 jackets, pants, shoes, gloves, helmets, and respiratory equipment.

8 (4) “Intentionally added” means the addition of a chemical in a product
9 that serves an intended function in the product component.

10 (5) “Manufacturer” means any person, firm, association, partnership,
11 corporation, organization, joint venture, importer, or domestic distributor of
12 firefighting agents or equipment. As used in this subsection, “importer” means
13 the owner of the product.

14 (6) “Municipality” means any city, town, incorporated village, town fire
15 district, or other political subdivision that provides firefighting services
16 pursuant to general law or municipal charter.

17 (7) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a
18 class of fluorinated organic chemicals containing at least one fully fluorinated
19 carbon atom.

1 § 1662. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

2 A person, municipality, or State agency shall not discharge or otherwise use
3 for training purposes class B firefighting foam that contains intentionally
4 added PFAS.

5 § 1663. RESTRICTION ON MANUFACTURE, SALE, AND

6 DISTRIBUTION; EXCEPTIONS

7 (a) A manufacturer of class B firefighting foam shall not manufacture, sell,
8 offer for sale, or distribute for sale or use in this State class B firefighting foam
9 to which PFAS have been intentionally added.

10 (b) Notwithstanding subsection (a), the following products are allowed:

11 (1) any manufacture, sale, or distribution of class B firefighting foam
12 where the inclusion of PFAS is required by federal law, including the
13 requirements of 14 C.F.R. 139.317 (aircraft rescue and firefighting: equipment
14 and agents), as that section existed as of January 1, 2021. In the event that
15 applicable federal regulations change after that date to allow the use of
16 alternative firefighting agents that do not contain PFAS, the Department shall
17 adopt rules that restrict PFAS for the manufacture, sale, and distribution of
18 firefighting foam for uses that are addressed by federal regulation.

19 (2) any manufacture, sale, or distribution of class B firefighting foam to
20 a person for use at a terminal operated by the person or an oil refinery operated
21 by the person.

1 (3) any manufacture sale, or distribution of class B firefighting foam to a
2 person for use at a chemical plant operated by the person.

3 § 1664. SALE OF PERSONAL PROTECTIVE EQUIPMENT

4 CONTAINING PFAS

5 (a) A manufacturer or other person that sells firefighting equipment to any
6 person, municipality, or State agency shall provide written notice to the
7 purchaser at the time of sale if the personal protective equipment contains
8 PFAS. The written notice shall include a statement that the personal protective
9 equipment contains PFAS and the reason PFAS are added to the equipment.

10 (b) The manufacturer or person selling personal protective equipment and
11 the purchaser of the personal protective equipment shall retain the notice for at
12 least three years from the date of the transaction. Upon request of the
13 Department, a person, manufacturer, or purchaser shall furnish the notice, or
14 written copies, and associated sales documentation to the Department within
15 60 days.

16 § 1665. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

17 (a) A manufacturer of class B firefighting foam prohibited pursuant to
18 section 1663 of this title shall notify, in writing, persons that sell the
19 manufacturer's products in this State about the provisions of this chapter not
20 less than one year prior to the effective date of the restrictions.

1 (b) A manufacturer that produces, sells, or distributes a class B firefighting
2 foam prohibited pursuant to section 1663 of this title shall recall the product
3 and reimburse the retailer or any other purchaser for the product.

4 § 1666. CERTIFICATE OF COMPLIANCE

5 (a) The Department may request a certificate of compliance from a
6 manufacturer of class B firefighting foam or firefighting personal protective
7 equipment. A certificate of compliance attests that a manufacturer's product or
8 products meet the requirements.

9 (b) The Department shall assist other State agencies and municipalities to
10 avoid purchasing or using class B firefighting foams to which PFAS has been
11 intentionally added. The Department shall assist other State agencies, town
12 fire districts, and other municipalities to give priority and preference to the
13 purchase of personal protective equipment that does not contain PFAS.

14 § 1667. PENALTIES

15 A violation of this chapter shall be deemed a violation of the Consumer
16 Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same
17 authority to make rules, conduct civil investigations, enter into assurances of
18 discontinuance, and bring civil actions, and private parties have the same rights
19 and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

1 Sec. 3. EFFECTIVE DATES

2 This act shall take effect on July 1, 2020, except Sec. 2 shall take effect on
3 July 1, 2022.