

1 S.101

2 Introduced by Senators Campion, Balint, Bray, Clarkson, Ingram, Lyons,

3 MacDonald, McCormack, Pollina and Sears

4 Referred to Committee on

5 Date:

6 Subject: Health; food packaging; PFAS chemicals

7 Statement of purpose of bill as introduced: This bill proposes to require the
8 Department of Health to conduct an analyses of the whether there are safer
9 alternatives to food packaging to which perfluoroalkyl and polyfluoroalkyl
10 substances have been intentionally added in any amount. If safer alternatives
11 exist for a specific application of food packaging, the bill would prohibit a
12 person from manufacturing, knowingly selling, offering for sale, distributing
13 for sale, or distributing for use in this State food packaging to which that PFAS
14 chemical has been intentionally added in any amount.

15 An act relating to requiring the use of safer alternatives to PFAS chemicals
16 in food packaging

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

18 Sec. 1. 18 V.S.A. § 1514 is added to read:

19 § 1514. DEFINITIONS

20 (a) Definitions. As used in this section:

1 (1) “Food package” means a package or packaging component that is
2 intended for direct food contact and is comprised, in substantial part, of paper,
3 paperboard, or other materials originally derived from plant fibers.

4 (2) “Manufacturer” means a person that applies a package to a product
5 for distribution or sale.

6 (3) “Package” means a container providing a means of marketing,
7 protecting, or handling a product and shall include a unit package, an
8 intermediate package, and a shipping container. “Package” also means
9 unsealed receptacles such as carrying cases, crates, cups, pails, rigid foil and
10 other trays, wrappers and wrapping films, bags, and tubs.

11 (4) “Packaging component” means an individual assembled part of a
12 package, including any interior or exterior blocking, bracing, cushioning,
13 weatherproofing, exterior strapping, coatings, closures, inks, and labels.

14 (5) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS
15 chemicals” means a class of fluorinated organic chemicals containing at least
16 one fully fluorinated carbon atom.

17 (6) “Safer alternative” means an alternative substance or chemical,
18 demonstrated by an alternatives assessment, that meets improved hazard and
19 exposure considerations and can be practicably and economically substituted
20 for the original chemical.

21 (b) Safer alternatives analyses.

1 (1) The Department of Health shall conduct an analysis of whether there
2 are safer alternatives to food packaging to which PFAS chemicals have been
3 intentionally added in any amount.

4 (2) To determine whether safer alternatives to PFAS chemicals exist, the
5 Department of Health shall conduct an alternatives assessment that complies
6 with all of the following:

7 (A) The Department of Health shall evaluate less toxic chemicals and
8 nonchemical alternatives to replace the use of a chemical.

9 (B) The Department of Health shall follow the guidelines for
10 alternatives assessments issued by the Interstate Chemicals Clearinghouse;

11 (C) The Department of Health shall, at a minimum, evaluate
12 chemical hazards, exposure, performance, cost, and availability of alternatives
13 to PFAS chemicals.

14 (D) In order to determine if safer alternatives exist, the Department of
15 Health shall determine whether safer alternatives are readily available in
16 sufficient quantity and at a comparable cost and perform as well as or better
17 than PFAS chemicals in a specific food packaging application. If an
18 alternative is a chemical, it must have previously been approved for food
19 contact by the U.S. Food and Drug administration.

20 (3) On or before January 15, 2021, the Department of Health shall
21 publish its findings on whether safer alternatives to PFAS chemicals in specific

1 applications of food packaging are available for each assessed application.

2 The Department shall submit its findings to the Senate Committees on Health
3 and Welfare and on Natural Resources and Energy and the House Committees
4 on Human Services and on Natural Resources, Fish, and Wildlife.

5 (c) Prohibition.

6 (1) If the Department of Health determines under subsection (b) of this
7 section that a safer alternative exists to a PFAS chemical in a specific
8 application of food packaging, a person shall not, beginning January 1, 2023,
9 manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for
10 use in this State food packaging to which that PFAS chemical has been
11 intentionally added in any amount.

12 (2) If the Department of Health determines under subsection (b) of this
13 section that a safer alternative exists to a PFAS chemical in a specific
14 application of food packaging does not exist, the Department of Health
15 annually shall review whether safer alternatives exist under the criteria set
16 forth in subsection (b) of this section. If the Department of Health determines
17 that a safer alternative exists, the Department shall report that determination to
18 the Senate Committees on Health and Welfare and on Natural Resources and
19 Energy and the House Committees on Human Services and on Natural
20 Resources, Fish, and Wildlife.

1 (3) If the Department of Health submits a report under subdivision (2) of
2 this section that a safer alternative to a PFAS chemical in a specific application
3 of food packaging does exist, a person shall not, beginning two years after the
4 report issued under subdivision (2) of this section, manufacture, knowingly
5 sell, offer for sale, distribute for sale, or distribute for use in this State food
6 packaging to which that PFAS chemical has been intentionally added in any
7 amount.

8 (d) Certificate of compliance.

9 (1) If prohibition goes into effect under subsection (c) of this section, the
10 manufacturer of a package or packaging component for the packaging of food
11 shall develop a certificate of compliance stating that a package or packaging
12 component is in compliance with the requirements of this chapter. For food
13 packaging, a manufacturer shall develop a compliance certificate by the date of
14 a prohibition taking effect under subsection (c) of this section.

15 (2) The certificate of compliance shall be signed by an authorized
16 official of the manufacturing company. The certificate of compliance shall be
17 kept on file by the manufacturer for as long as the package or packaging
18 component is in use, and for three years from the date of the last sale or
19 distribution by the manufacturer. Certificates of compliance, or copies thereof,
20 shall be furnished to the department of ecology upon request within 60 days.

1 (3) If the manufacturer or supplier of the package or packaging
2 component reformulates or creates a new package or packaging component,
3 the manufacturer shall develop an amended or new certificate of compliance
4 for the reformulated or new package or packaging component.

5 Sec. 2. EFFECTIVE DATE

6 This act shall take effect on July 1, 2019.