Introduced by Senators Campion, Balint, Bray, Clarkson, Ingram, Lyons, MacDonald, McCormack, Pollina and Sears

Referred to Committee on

Date:

Subject: Health; food packaging; PFAS chemicals

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

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

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

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

§ 1514. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

(3) On or before January 15, 2021, the Department of Health shall
publish its findings on whether safer alternatives to PFAS chemicals in specific
applications of food packaging are available for each assessed application.

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

(c) Prohibition.

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

(2) If the Department of Health determines under subsection (b) of this section that a safer alternative exists to a PFAS chemical in a specific application of food packaging does not exist, the Department of Health annually shall review whether safer alternatives exist under the criteria set forth in subsection (b) of this section. If the Department of Health determines that a safer alternative exists, the Department shall report that determination to the Senate Committees on Health and Welfare and on Natural Resources and Energy and the House Committees on Human Services and on Natural Resources, Fish, and Wildlife.
(3) If the Department of Health submits a report under subdivision (2) of this section that a safer alternative to a PFAS chemical in a specific application of food packaging does exist, a person shall not, beginning two years after the report issued under subdivision (2) of this section, manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this State food packaging to which that PFAS chemical has been intentionally added in any amount.

(d) Certificate of compliance.

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

(2) The certificate of compliance shall be signed by an authorized official of the manufacturing company. The certificate of compliance shall be kept on file by the manufacturer for as long as the package or packaging component is in use, and for three years from the date of the last sale or distribution by the manufacturer. Certificates of compliance, or copies thereof, shall be furnished to the department of ecology upon request within 60 days.
(3) If the manufacturer or supplier of the package or packaging component reformulates or creates a new package or packaging component, the manufacturer shall develop an amended or new certificate of compliance for the reformulated or new package or packaging component.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2019.