

**S.295: An act relating to restrictions on perfluoroalkyl and polyfluoroalkyl substances and other chemicals of concern in consumer products**

(as Passed the Senate)

**Sec. 1: PFAS in Class B Firefighting Foam**

- **Discharge/use.** Prohibits a person, municipality, or State agency from discharging or otherwise using for training purposes class B firefighting foam that contains intentionally added PFAS.
- **Restriction on manufacture, sale, and distribution.** Prohibits a manufacturer of class B firefighting foam from manufacturing, selling, offering for sale, or distributing for sale or use in Vermont class B firefighting foam to which PFAS have been intentionally added.
  - Exception. The manufacture, sale, or distribution of class B firefighting foam where the inclusion of PFAS is required by federal law, including the requirements of 14 C.F.R. 139.317 (aircraft rescue and firefighting: equipment and agents), as that section existed as of January 1, 2020 is allowed.
- **PPE.** Requires a manufacturer or other person that sells firefighting equipment to any person, municipality, or State agency to provide notice to the purchaser at the time of sale if the personal protective equipment (PPE) contains PFAS. The notice shall include a statement that the PPE contains PFAS and the reason PFAS are added to the equipment.
  - Requires the manufacturer or person selling PPE and the purchaser to retain the notice for at least 3 years from the date of the sale. If the Department of Health requests, a person, manufacturer, or purchaser shall furnish the notice or written copies and associated sales documentation to the Department within 60 days.
- **Notification/Recall.** Requires a manufacturer of prohibited class B firefighting foam to notify persons that sell the manufacturer's products in Vermont about the provisions of this chapter not less than one year prior to the effective date of the restrictions.
  - Requires a manufacturer that produces, sells, or distributes prohibited class B firefighting foam to recall the product and reimburse the retailer or any other purchaser for the product.
- **Certificate of compliance.** Allows the Department to request a certificate of compliance from a manufacturer of class B firefighting foam or firefighting PPE, which attests that a manufacturer's product or products meet the requirements of the chapter.
  - Requires the Department to assist other State agencies and municipalities to avoid purchasing or using prohibited class B firefighting foams. The Department shall assist other State agencies, town fire districts, and other municipalities to give priority and preference to the purchase of PPE that does not contain PFAS.
- **Penalties.** A violation of this chapter is considered a violation of the Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under the Consumer Protection Act.

## **Sec. 2: PFAS, Phthalates, and Bisphenols in Food Packaging**

- Prohibits a manufacturer, supplier, or distributor from manufacturing, selling, offering for sale, distributing for sale, or distributing for use in Vermont a food package to which **PFAS** have been intentionally added in any amount.
- Allows the Department of Health to adopt rules prohibiting a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package to which **bisphenols** have been intentionally added in any amount greater than an incidental presence.
  - The Department may only prohibit a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package, if it has determined that:
    - a safer alternative is readily available in sufficient quantity and at a comparable cost; and
    - the safer alternative performs as well as or better than bisphenols in a specific application of bisphenols to a food package or the packaging component of a food package.
  - If the Department prohibits a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package, the prohibition shall not take effect until two years after the Department determines that a safer alternative to bisphenols is available.
- Prohibits a manufacturer, supplier, or distributor from manufacturing, selling, offering for sale, distributing for sale, or distributing for use in Vermont a food package that includes inks, dyes, pigments, adhesives, stabilizers, coatings, plasticizers, or any other additives to which **phthalates** have been intentionally added in any amount greater than an incidental presence.
- This section shall not apply to the sale or resale of used products
- Requires a manufacturer impacted by this chapter to develop a certificate of compliance, which attests that a manufacturer's product or products meet the requirements of the chapter. If the Department of Health were to request such a certificate, the manufacturer must provide it within 30 calendar days of receipt of the request.
- Requires the Commissioner of Health to adopt any rules necessary for the implementation, administration, and enforcement of the chapter.

## **Sec. 3: Rugs and Carpets**

- Prohibits a manufacturer, supplier, or distributor from manufacturing, selling, offering for sale, distributing for sale, or distributing for use in Vermont a residential rug or carpet to which PFAS have been intentionally added in any amount. This section shall not apply to the sale or resale of used products.
- Requires a manufacturer impacted by this chapter to develop a certificate of compliance, which attests that a manufacturer's product or products meet the requirements of the chapter. If the Department of Health were to request such a certificate, the manufacturer must provide it within 30 calendar days of receipt of the request.
- Requires the Commissioner of Health to adopt any rules necessary for the implementation, administration, and enforcement of the chapter.

**Sec. 4: Chemicals of High Concern to Children**

- Adds PFAS to previously enacted list of chemicals of high concern to children (meaning this would require a manufacturer of a children's product containing intentionally added PFAS or PFAS in an amount that exceeds a certain threshold to provide notice of the inclusion to the Department of Health)

**Sec. 5: Effective Dates**

- Act takes effect July 1, 2020, except:
  - Secs. 1 (Class B Firefighting Foam) and 4 (Chemicals of High Concern to Children) take effect on July 1, 2021; and
  - Secs. 2 (Food Packaging) and 3 (Rugs and Carpets) shall take effect on July1, 2022