
This act summary is provided for the convenience of the public and members of the General Assembly. It is intended to provide a general summary of the act and may not be exhaustive. It has been prepared by the staff of the Office of Legislative Counsel without input from members of the General Assembly. It is not intended to aid in the interpretation of legislation or to serve as a source of legislative intent.

Act No. 36 (S.20). Health; environmental health

An act relating to restrictions on perfluoroalkyl and polyfluoroalkyl substances and other chemicals of concern in consumer products

This act prohibits a person, municipality, or State agency from discharging or otherwise using for training or testing purposes class B firefighting foam that contains intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS). Unless required under federal law, but in no event later than October 1, 2023, a manufacturer of class B firefighting foam is prohibited 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. However, these restrictions do not apply to class B firefighting foam containing intentionally added PFAS used at a terminal until January 1, 2024. After that date, a person operating a terminal who seeks to purchase class B firefighting foam containing intentionally added PFAS for fighting emergency class B fires may apply to the Department of Environmental Conservation for a temporary one-year exemption, which the Department, in consultation with the Department of Health, may grant applicant if the applicant provides certain information. A manufacturer that produces, sells, or distributes class B firefighting foam containing intentionally added PFAS, and that is not subject to the terminal exemption, shall recall the product and reimburse the retailer or any other purchaser for the product and issue either a press release or notice on the manufacturer's website describing the product recall and reimbursement.

This act 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 contains PFAS. The notice shall include a statement that the PPE contains PFAS and the reason PFAS are added to the equipment.

With regard to food packaging, this act 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 and are present in any amount. It also 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 ortho-phthalates have been intentionally added and are present in any amount greater than an incidental presence.

This act 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 and are present in any amount greater than an incidental presence. The Department may exempt specific chemicals within the bisphenol class when clear and convincing evidence suggests they are not endocrine-active or otherwise toxic. 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 the Department or another state has determined that a safer alternative is readily 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 thereafter.

This act 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, aftermarket stain or water resistant treatment for rugs or carpets, and ski wax to which PFAS have been intentionally added in any amount. This prohibition, however, does not apply to the sale or resale of used products.

The act authorizes the Attorney General to request a certificate of compliance from a manufacturer of class B firefighting foam, firefighting personal protective equipment, food packaging, residential rugs or carpets, aftermarket stain and water resistant treatments for rugs or carpets, and ski wax. Within 30 days after request, the manufacturer must either: (1) provide the Attorney General with a certificate attesting that the manufacturer's product comply with the chapter; or (2) notify persons who are selling a product of the manufacturer's in Vermont that the sale is prohibited because the product does not comply with the chapter and submit to the Attorney General a list of names and addresses of those persons notified.

Lastly, this act adds the following three PFAS to the previously enacted list of chemicals of high concern to children:

- PFHxS (perfluorohexane sulfonic acid);
- PFHpA (perfluoroheptanoic acid); and
- PFNA (perfluorononanoic acid).

Multiple effective dates, beginning on July 1, 2021