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H.26

Introduced by Representatives Dolan of Waitsfield, Squirrell of Underhill,  
Lefebvre of Newark, McCullough of Williston, Ode of  
Burlington, and Sheldon of Middlebury

Referred to Committee on

Date:

Subject: Health; public health; perfluoroalkyl and polyfluoroalkyl substances;  
class B firefighting foam; food packaging; rugs and carpets

Statement of purpose of bill as introduced: This bill proposes to: (1) impose  
restrictions on the use, manufacture, sale, and distribution of class B  
firefighting foam containing perfluoroalkyl and polyfluoroalkyl substances;  
(2) impose restrictions on the manufacture, sale, and distribution of food  
packaging to which perfluoroalkyl and polyfluoroalkyl substances, phthalates,  
or bisphenols have been added; (3) impose restrictions on the manufacture,  
sale, and distribution of residential rugs and carpets to which perfluoroalkyl  
and polyfluoroalkyl substances have been added; and (4) include  
perfluoroalkyl and polyfluoroalkyl substances on the list of chemicals of high  
concern to children.

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

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

2 \* \* \* PFAS in Class B Firefighting Foam \* \* \*

3 Sec. 1. 18 V.S.A. chapter 33 is added to read:

4 CHAPTER 33. FIREFIGHTING AGENTS AND EQUIPMENT

5 § 1661. DEFINITIONS

6 As used in this chapter:

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

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

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

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

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

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

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

7           § 1662. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

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

11           § 1663. RESTRICTION ON MANUFACTURE, SALE, AND

12                   DISTRIBUTION; EXCEPTIONS

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

16           (b) Notwithstanding subsection (a) of this section, any manufacture, sale,  
17           or distribution of class B firefighting foam where the inclusion of PFAS is  
18           required by federal law, including the requirements of 14 C.F.R. 139.317  
19           (aircraft rescue and firefighting: equipment and agents), as that section existed  
20           as of January 1, 2020, is allowed. In the event that applicable federal  
21           regulations change after that date to allow the use of alternative firefighting

1 agents that do not contain PFAS, the Department shall adopt rules that restrict  
2 PFAS for the manufacture, sale, and distribution of firefighting foam for uses  
3 that are addressed by federal regulation.

4 § 1664. SALE OF PERSONAL PROTECTIVE EQUIPMENT

5 CONTAINING PFAS

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

11 (b) The manufacturer or person selling personal protective equipment and  
12 the purchaser of the personal protective equipment shall retain the notice for at  
13 least three years from the date of the transaction. Upon request of the  
14 Department, a person, manufacturer, or purchaser shall furnish the notice or  
15 written copies and associated sales documentation to the Department within  
16 60 days.

17 § 1665. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

18 (a) A manufacturer of class B firefighting foam prohibited pursuant to  
19 section 1663 of this title shall notify, in writing, persons that sell the  
20 manufacturer's products in this State about the provisions of this chapter not  
21 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 of this chapter.

9       (b) The Department shall assist other State agencies and municipalities to  
10       avoid purchasing or using class B firefighting foams to which PFAS have 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           \* \* \* PFAS, Phthalates, and Bisphenols in Food Packaging \* \* \*

2           Sec. 2. 18 V.S.A. chapter 33A is added to read:

3           CHAPTER 33A. CHEMICALS OF CONCERN IN FOOD PACKAGING

4           § 1671. DEFINITIONS

5           As used in this chapter:

6           (1) “Bisphenols” means industrial chemicals used primarily in the  
7           manufacture of polycarbonate plastic and epoxy resins.

8           (2) “Department” means the Department of Health.

9           (3) “Food packaging” means a package that is designed for direct food  
10          contact, including a food or beverage product that is contained in a food  
11          package or to which a food package is applied, a packaging component of a  
12          food package, and plastic disposable gloves used in commercial or institutional  
13          food service.

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

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

1           (6) “Packaging component” means an individual assembled part of a  
2           package, such as any interior or exterior blocking, bracing, cushioning,  
3           weatherproofing, exterior strapping, coatings, closures, inks, and labels.

4           (7) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” has the  
5           same meaning as in section 1661 of this title.

6           (8) “Phthalates” means any member of the class of organic chemicals  
7           that are esters of phthalic acid containing two carbon chains located in the  
8           ortho position.

9           § 1672. FOOD PACKAGING

10           (a) A manufacturer, supplier, or distributor shall not manufacture, sell,  
11           offer for sale, distribute for sale, or distribute for use in this State a food  
12           package to which PFAS have been intentionally added in any amount.

13           (b) Pursuant to 3 V.S.A. chapter 25, the Department may adopt rules  
14           prohibiting a manufacturer, supplier, or distributor from selling or offering for  
15           sale or for promotional distribution a food package or the packaging  
16           component of a food package to which bisphenols have been intentionally  
17           added in any amount greater than an incidental presence.

18           (1) The Department may only prohibit a manufacturer, supplier, or  
19           distributor from selling or offering for sale or for promotional distribution a  
20           food package or the packaging component of a food package in accordance  
21           with this subsection if the Department has determined that a safer alternative is

1 readily available in sufficient quantity and at a comparable cost and that the  
2 safer alternative performs as well as or better than bisphenols in a specific  
3 application of bisphenols to a food package or the packaging component of a  
4 food package.

5 (2) If the Department prohibits a manufacturer, supplier, or distributor  
6 from selling or offering for sale or for promotional distribution a food package  
7 or the packaging component of a food package in accordance with this  
8 subsection, the prohibition shall not take effect until two years after the  
9 Department determines that a safer alternative to bisphenols is available.

10 (c) A manufacturer, supplier, or distributor shall not manufacture, sell,  
11 offer for sale, distribute for sale, or distribute for use in this State a food  
12 package that includes inks, dyes, pigments, adhesives, stabilizers, coatings,  
13 plasticizers, or any other additives to which phthalates have been intentionally  
14 added in any amount greater than an incidental presence.

15 (d) This section shall not apply to the sale or resale of used products.

16 § 1673. CERTIFICATE OF COMPLIANCE

17 A manufacturer subject to the prohibitions under this chapter shall develop  
18 a certificate of compliance under this section. A certificate of compliance  
19 attests that a manufacturer's product or products meet the requirements of this  
20 chapter. If the Department requests such a certificate, the manufacturer shall  
21 provide the certificate within 30 calendar days after the request is made.



1     § 1674. RULEMAKING

2             Pursuant to 3 V.S.A. chapter 25, the Commissioner of Health shall adopt  
3     any rules necessary for the implementation, administration, and enforcement of  
4     this chapter.

5                             \* \* \* Rugs and Carpets \* \* \*

6     Sec. 3. 18 V.S.A. chapter 33B is added to read:

7                             CHAPTER 33B. RUGS AND CARPETS

8     § 1681. DEFINITIONS

9             As used in this chapter:

10            (1) “Department” means the Department of Health.

11            (2) “Intentionally added” means the addition of a chemical in a product  
12     that serves an intended function in the product component.

13            (3) “Rug or carpet” means a thick fabric used to cover floors.

14            (4) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” has the  
15     same meaning as in section 1661 of this title.

16     § 1682. RUGS AND CARPETS

17            (a) A manufacturer, supplier, or distributor shall not manufacture, sell,  
18     offer for sale, distribute for sale, or distribute for use in this State a residential  
19     rug or carpet to which PFAS have been intentionally added in any amount.

20            (b) This section shall not apply to the sale or resale of used products.

1     § 1683. CERTIFICATE OF COMPLIANCE

2             A manufacturer subject to the prohibitions under this chapter shall develop  
3     a certificate of compliance under this section. A certificate of compliance  
4     attests that a manufacturer's product or products meet the requirements of this  
5     chapter. If the Department requests such a certificate, the manufacturer shall  
6     provide the certificate within 30 calendar days after the request is made.

7     § 1684. RULEMAKING

8             Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt any rules  
9     necessary for the implementation, administration, and enforcement of this  
10    chapter.

11                     \* \* \* Chemicals of High Concern to Children \* \* \*

12     Sec. 4. 18 V.S.A. § 1773 is amended to read:

13     § 1773. CHEMICALS OF HIGH CONCERN TO CHILDREN

14             (a) List of chemicals of high concern to children. The following chemicals  
15     or a member of a class of chemicals are designated as chemicals of high  
16     concern to children for the purposes of the requirements of this chapter:

17                                     \* \* \*

18             (67) Perfluoroalkyl and polyfluoroalkyl substances, the class for  
19     fluorinated organic chemicals containing at least one fully fluorinated carbon  
20     atom.

