

1 S.20

2 Introduced by Senators Lyons, Campion, Balint, Baruth, Bray, Clarkson,
3 Cummings, Hardy, McCormack, Pearson, Perchlik, Pollina,
4 Ram and Sears

5 Referred to Committee on Health and Welfare

6 Date: January 13, 2021

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

9 Statement of purpose of bill as introduced: This bill proposes to: (1) impose
10 restrictions on the use, manufacture, sale, and distribution of class B
11 firefighting foam containing perfluoroalkyl and polyfluoroalkyl substances;
12 (2) impose restrictions on the manufacture, sale, and distribution of food
13 packaging to which perfluoroalkyl and polyfluoroalkyl substances, phthalates,
14 or bisphenols have been added; (3) impose restrictions on the manufacture,
15 sale, and distribution of residential rugs, carpets, and aftermarket stain and
16 water resistance treatments to which perfluoroalkyl and polyfluoroalkyl
17 substances have been added; (4) impose restrictions on the manufacture, sale,
18 and distribution of ski wax; and (5) include perfluoroalkyl and polyfluoroalkyl
19 substances on the list of chemicals of high concern to children.

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

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

4 ~~*** PFAS in Class B Firefighting Foam ***~~

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

6 CHAPTER 33. PFAS IN FIREFIGHTING AGENTS AND EQUIPMENT

7 § 1661. DEFINITIONS

8 As used in this chapter:

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

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

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

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

18 (5) “Manufacturer” means any person, firm, association, partnership,
19 corporation, organization, joint venture, importer, or domestic distributor of
20 firefighting agents or equipment. As used in this subsection, “importer” means
21 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 or a chemical compound meant to replace perfluoroalkyl and
7 polyfluoroalkyl substances that has similar chemical properties.

8 § 1662. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

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

12 § 1663. RESTRICTION ON MANUFACTURE, SALE, AND

13 DISTRIBUTION; EXCEPTIONS

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

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

1 ~~regulations change after that date to allow the use of alternative firefighting~~
2 agents that do not contain PFAS, the Department shall adopt rules that restrict
3 PFAS for the manufacture, sale, and distribution of firefighting foam for uses
4 that are addressed by federal regulation.

5 § 1664. SALE OF PERSONAL PROTECTIVE EQUIPMENT
6 CONTAINING PFAS

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

12 (b) The manufacturer or person selling personal protective equipment and
13 the purchaser of the personal protective equipment shall retain the notice for at
14 least three years from the date of the transaction. Upon request of the
15 Department, a person, manufacturer, or purchaser shall furnish the notice or
16 written copies and associated sales documentation to the Department within
17 60 days.

18 § 1665. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

19 (a) A manufacturer of class B firefighting foam prohibited pursuant to
20 section 1665 of this title shall notify, in writing, persons that sell the

1 ~~manufacturer's products in this State about the provisions of this chapter not~~
2 less than one year prior to the effective date of the restrictions.

3 (b) A manufacturer that produces, sells, or distributes a class B firefighting
4 foam prohibited pursuant to section 1663 of this title shall recall the product
5 and reimburse the retailer or any other purchaser for the product.

6 § 1666. CERTIFICATE OF COMPLIANCE

7 (a) The Department may request a certificate of compliance from a
8 manufacturer of class B firefighting foam or firefighting personal protective
9 equipment. A certificate of compliance attests that a manufacturer's product
10 or products meet the requirements of this chapter.

11 (b) The Department shall assist other State agencies and municipalities to
12 avoid purchasing or using class B firefighting foams to which PFAS have been
13 intentionally added. The Department shall assist other State agencies, town
14 fire districts, and other municipalities to give priority and preference to the
15 purchase of personal protective equipment that does not contain PFAS.

16 § 1667. PENALTIES

17 A violation of this chapter shall be deemed a violation of the Consumer
18 Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same
19 authority to make rules, conduct civil investigations, enter into assurances of
20 discontinuance, and bring civil actions, and private parties have the same
21 rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

~~*** DEAS, Phthalates, and Bisphenols in Food Packaging ***~~

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

CHAPTER 33A. CHEMICALS OF CONCERN IN FOOD PACKAGING

§ 1671. DEFINITIONS

As used in this chapter:

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

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

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

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

(5) “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.

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
4 of this chapter.

5 * * * Rugs, Carpets, and Aftermarket Stain and Water Resistant
6 Treatments * * *

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

8 CHAPTER 33B. PFAS IN RUGS, CARPETS, AND AFTERMARKET
9 STAIN AND WATER RESISTANT TREATMENTS

10 § 1681. DEFINITIONS

11 As used in this chapter:

12 (1) “Aftermarket stain and water resistant treatments” means treatments
13 for textile and leather consumer products used in residential settings that have
14 been treated during the manufacturing process for stain, oil, and water
15 resistance, but excludes products marketed or sold exclusively for use at
16 industrial facilities during the manufacture of a carpet, rug, clothing, or shoe.

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

18 (3) “Intentionally added” means the addition of a chemical in a product
19 that serves an intended function in the product component.

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

1 ~~(5) "Rug or carpet" means a thick fabric used to cover floors.~~

2 § 1682. RUGS AND CARPETS

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

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

7 § 1683. AFTERMARKET STAIN AND WATER RESISTANT

8 TREATMENTS

9 (a) A manufacturer, supplier, or distributor shall not manufacture, sell,
10 offer for sale, distribute for sale, or distribute for use in this State aftermarket
11 stain and water resistant treatments for rugs or carpets to which PFAS have
12 been intentionally added in any amount.

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

14 § 1684. CERTIFICATE OF COMPLIANCE

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

1 § 1685. RULEMAKING

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

5 * * * Ski Wax * * *

6 Sec. 4. 18 V.S.A. chapter 33C is added to read:

7 CHAPTER 33C. PFAS IN SKI WAX

8 § 1691. 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) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” has the
14 same meaning as in section 1661 of this title.

15 (4) “Ski wax” means a lubricant applied to the bottom of snow runners,
16 including skis and snowboards, to improve their grip and glide properties.

17 § 1692. SKI WAX

18 (a) A manufacturer, supplier, or distributor shall not manufacture, sell,
19 offer for sale, distribute for sale, or distribute for use in this State ski wax or
20 related tuning products to which PFAS have been intentionally added in any
21 amount.

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

2 § 1693. CERTIFICATE OF COMPLIANCE

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

8 § 1694. RULEMAKING

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

12 * * * Chemicals of High Concern to Children * * *

13 Sec. 5. 18 V.S.A. § 1773 is amended to read:

14 § 1773. CHEMICALS OF HIGH CONCERN TO CHILDREN

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

18 * * *

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

1 ~~atom or a chemical compound meant to replace perfluoroalkyl and~~
2 ~~polyfluoroalkyl substances that has similar chemical properties.~~

3 (68) Any other chemical designated by the Commissioner as a chemical
4 of high concern to children by rule under section 1776 of this title.

5 * * *

6 * * * Effective Dates * * *

7 Sec. 6. EFFECTIVE DATES

8 This act shall take effect on July 1, 2021, except that Secs. 1 (class B
9 firefighting foam) and 5 (chemicals of high concern to children) shall take
10 effect on July 1, 2022 and Secs. 2 (food packaging), 3 (rugs and carpets), and
11 4 (ski wax) shall take effect on July 1, 2023.

~~* * * PFAS in Class B Firefighting Foam * * *~~

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

~~CHAPTER 33. PFAS IN FIREFIGHTING AGENTS AND EQUIPMENT~~

~~§ 1661. DEFINITIONS~~

~~As used in this chapter:~~

~~(1) "Class B firefighting foam" means chemical foams designed for flammable liquid fires.~~

~~(2) "Department" means the Vermont Department of Health.~~

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

~~(4) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.~~

~~(5) "Manufacturer" means any person, firm, association, partnership, corporation, organization, joint venture, importer, or domestic distributor of~~

~~firefighting agents or equipment. As used in this subsection, "importer" means the owner of the product.~~

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

~~(7) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.~~

~~§ 1662. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM~~

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

~~§ 1663. RESTRICTION ON MANUFACTURE, SALE, AND DISTRIBUTION; EXCEPTIONS~~

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

~~(b) Notwithstanding subsection (a) of this section, any 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. In the event that applicable federal regulations change after that date to allow the use of alternative firefighting agents that do not contain PFAS, the Department shall adopt rules that restrict PFAS for the manufacture, sale, and distribution of firefighting foam for uses that are addressed by federal regulation.~~

~~§ 1664. SALE OF PERSONAL PROTECTIVE EQUIPMENT CONTAINING PFAS~~

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

~~(b) The manufacturer or person selling personal protective equipment and the purchaser of the personal protective equipment shall retain the notice for at least three years from the date of the transaction. Upon request of the Department, a person, manufacturer, or purchaser shall furnish the notice of~~

~~Written copies and associated sales documentation to the Department within 60 days.~~

~~§ 1665. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS~~

~~(a) A manufacturer of class B firefighting foam prohibited pursuant to section 1663 of this title shall notify, in writing, persons that sell the manufacturer's products in this State about the provisions of this chapter not less than one year prior to the effective date of the restrictions.~~

~~(b) A manufacturer that produces, sells, or distributes a class B firefighting foam prohibited pursuant to section 1663 of this title shall recall the product and reimburse the retailer or any other purchaser for the product.~~

~~§ 1666. CERTIFICATE OF COMPLIANCE~~

~~(a) The Department may request a certificate of compliance from a manufacturer of class B firefighting foam or firefighting personal protective equipment. A certificate of compliance attests that a manufacturer's product or products meet the requirements of this chapter.~~

~~(b) The Department shall assist other State agencies and municipalities to avoid purchasing or using class B firefighting foams to which PFAS have been intentionally added. The Department shall assist other State agencies, town fire districts, and other municipalities to give priority and preference to the purchase of personal protective equipment that does not contain PFAS.~~

~~§ 1667. PENALTIES~~

~~A violation of this chapter shall be deemed 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 9 V.S.A. chapter 63, subchapter 1.~~

~~*** PFAS, Phthalates, and Bisphenols in Food Packaging ***~~

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

~~CHAPTER 33A. CHEMICALS OF CONCERN IN FOOD PACKAGING~~

~~§ 1671. DEFINITIONS~~

~~As used in this chapter:~~

~~(1) "Bisphenols" means any member of a class of industrial chemicals that contain two hydroxyphenyl groups. Bisphenols are used primarily in the manufacture of polycarbonate plastic and epoxy resins.~~

~~(2) "Department" means the Department of Health.~~

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

~~(4) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.~~

~~(5) "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.~~

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

~~(7) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in section 1661 of this title.~~

~~(8) "Phthalates" means any member of the class of organic chemicals that are esters of phthalic acid.~~

§ 1672. FOOD PACKAGING

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

~~(b) Pursuant to 3 V.S.A. chapter 25, the Department may 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.~~

~~(1) 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 in accordance with this subsection if the Department has determined that a safer alternative is readily available in sufficient quantity and at a comparable cost and that 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.~~

~~(2) If the Department prohibits a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package~~

of the packaging component of a food package in accordance with this subsection, the prohibition shall not take effect until two years after the Department determines that a safer alternative to bisphenols is available.

(c) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State 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.

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

§ 1673. CERTIFICATE OF COMPLIANCE

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

§ 1674. RULEMAKING

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

* * * Rugs, Carpets, and Aftermarket Stain and Water Resistant
Treatments * * *

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

CHAPTER 33B. PFAS IN RUGS, CARPETS, AND AFTERMARKET STAIN
AND WATER RESISTANT TREATMENTS

§ 1681. DEFINITIONS

As used in this chapter:

(1) "Aftermarket stain and water resistant treatments" means treatments for textile and leather consumer products used in residential settings that have been treated during the manufacturing process for stain, oil, and water resistance, but excludes products marketed or sold exclusively for use at industrial facilities during the manufacture of a carpet, rug, clothing, or shoe.

(2) "Department" means the Department of Health.

(3) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.

~~(4) "Perfluoralkyl and polyfluoralkyl substances" or "PFAS" has the same meaning as in section 1661 of this title.~~

~~(5) "Rug or carpet" means a thick fabric used to cover floors.~~

~~§ 1682. RUGS AND CARPETS~~

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

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

~~§ 1683. AFTERMARKET STAIN AND WATER RESISTANT TREATMENTS~~

~~(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State aftermarket stain and water resistant treatments for rugs or carpets to which PFAS have been intentionally added in any amount.~~

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

~~§ 1684. CERTIFICATE OF COMPLIANCE~~

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

~~§ 1685. RULEMAKING~~

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

~~*** Ski Wax ***~~

~~Sec. 4. 18 V.S.A. chapter 33C is added to read:~~

~~CHAPTER 33C. PFAS IN SKI WAX~~

~~§ 1691. DEFINITIONS~~

~~As used in this chapter:~~

~~(1) "Department" means the Department of Health.~~

~~(2) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.~~

~~(3) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in section 1661 of this title.~~

~~(4) "Ski wax" means a lubricant applied to the bottom of snow runners, including skis and snowboards, to improve their grip and glide properties.~~

~~§ 1692. SKI WAX~~

~~(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State ski wax or related tuning products to which PFAS have been intentionally added in any amount.~~

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

~~§ 1693. CERTIFICATE OF COMPLIANCE~~

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

~~§ 1694. RULEMAKING~~

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

~~*** Chemicals of High Concern to Children ***~~

~~Sec. 5. 18 V.S.A. § 1773 is amended to read:~~

~~§ 1773. CHEMICALS OF HIGH CONCERN TO CHILDREN~~

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

~~***~~

~~(67) Perfluoroalkyl and polyfluoroalkyl substances, the class for fluorinated organic chemicals containing at least one fully fluorinated carbon atom or a chemical compound meant to replace perfluoroalkyl and polyfluoroalkyl substances that has similar chemical properties.~~

~~(68) Any other chemical designated by the Commissioner as a chemical of high concern to children by rule under section 1776 of this title.~~

~~*** Effective Dates ***~~

~~Sec. 6. EFFECTIVE DATES~~

~~This act shall take effect on July 1, 2021, except that Secs. 1 (class B firefighting foam) and 5 (chemicals of high concern to children) shall take effect on July 1, 2022 and Secs. 2 (food packaging), 3 (rugs and carpets), and 4 (ski wax) shall take effect on July 1, 2023.~~

~~*** PFAS in Class B Firefighting Foam ***~~

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

~~CHAPTER 33. PFAS IN FIREFIGHTING AGENTS AND EQUIPMENT~~

~~§ 1661. DEFINITIONS~~

~~As used in this chapter:~~

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

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

~~(3) “Manufacturer” means any person, firm, association, partnership, corporation, organization, joint venture, importer, or domestic distributor of firefighting agents or equipment. As used in this subsection, “importer” means the owner of the product.~~

~~(4) “Municipality” means any city, town, incorporated village, town fire district, or other political subdivision that provides firefighting services pursuant to general law or municipal charter.~~

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

~~(6) “Personal protective equipment” means clothing designed, intended, or marketed to be worn by firefighting personnel in the performance of their duties, designed with the intent for use in fire and rescue activities, and includes jackets, pants, shoes, gloves, helmets, and respiratory equipment.~~

~~(7) “Terminal” means an establishment primarily engaged in the wholesale distribution of crude petroleum and petroleum products, including liquefied petroleum gas from bulk liquid storage facilities.~~

§ 1662. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

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

§ 1663. RESTRICTION ON MANUFACTURE, SALE, AND DISTRIBUTION; EXCEPTIONS

(a)(1) Unless otherwise required under federal law, but not later than October 1, 2023, a manufacturer of class B firefighting foam shall not manufacture, sell, offer for sale, or distribute for sale or use in this State class B firefighting foam to which PFAS have been intentionally added.

(2) Notwithstanding subdivision (1) of this subsection, the restriction on the manufacture, sale, offer for sale, or distribution of class B firefighting foam containing intentionally added PFAS for use at a terminal shall not apply until January 1, 2024.

(b) A person operating a terminal after January 1, 2024, and who seeks to purchase class B firefighting foam containing intentionally added PFAS for the purpose of fighting emergency class B fires, may apply to the Department of Environmental Conservation for a temporary exemption from the restrictions on the manufacture, sale, offer for sale, or distribution of class B firefighting foam for use at a terminal. An exemption shall not exceed one year. The Department of Environmental Conservation, in consultation with the Department of Health, may grant an exemption under this subsection if the applicant provides:

(1) clear and convincing evidence that there is not a commercially available alternative that:

(A) does not contain intentionally added PFAS; and

(B) is capable of suppressing a large atmospheric tank fire or emergency class B fire at the terminal;

(2) information on the amount of class B firefighting foam containing intentionally added PFAS that is annually stored, used, or released at the terminal;

(3) a report on the progress being made by the applicant to transition at the terminal to class B firefighting foam that does not contain intentionally added PFAS; and

(4) an explanation of how:

(A) all releases of class B firefighting foam containing intentionally added PFAS shall be fully contained at the terminal; and

(B) existing containment measures prevent firewater, wastewater, runoff, and other wastes from being released into the environment, including into soil, groundwater, waterways, and stormwater.

(c) Nothing in this section shall prohibit a terminal from providing class B firefighting foam in the form of aid to another terminal in the event of a class B fire.

§ 1664. SALE OF PERSONAL PROTECTIVE EQUIPMENT
CONTAINING PFAS

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

(b) The manufacturer or person selling personal protective equipment and the purchaser of the personal protective equipment shall retain the notice for at least three years from the date of the transaction.

§ 1665. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

(a) A manufacturer of class B firefighting foam containing intentionally added PFAS shall provide written notice to persons that sell the manufacturer's products in this State about the restrictions imposed by this chapter not less than one year prior to the effective date of the restrictions.

(b) Unless a class B firefighting foam containing intentionally added PFAS is intended for use at a terminal, and if after January 1, 2024, the person operating a terminal holds a temporary exemption pursuant to subsection (b) of section 1663 of this title, a manufacturer that produces, sells, or distributes a class B firefighting foam containing intentionally added PFAS shall:

(1) recall the product and reimburse the retailer or any other purchaser for the product; and

(2) issue either a press release or notice on the manufacturer's website describing the product recall and reimbursement requirement established in this subsection.

§ 1666. CERTIFICATE OF COMPLIANCE

The Attorney General may request a certificate of compliance from a manufacturer of class B firefighting foam or firefighting personal protective equipment. Within 30 days after receipt of the Attorney General's request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer's product or products comply with the requirements of this chapter; or

(2) notify persons who are selling a product of the manufacturer's in this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and addresses of those persons notified.

§ 1667. PENALTIES

(a) A violation of this chapter shall be deemed 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 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.

* * * PFAS, Phthalates, and Bisphenols in Food Packaging * * *

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

CHAPTER 33A. CHEMICALS OF CONCERN IN FOOD PACKAGING

§ 1671. DEFINITIONS

As used in this chapter:

(1) "Bisphenols" means any member of a class of industrial chemicals that contain two hydroxyphenyl groups. Bisphenols are used primarily in the manufacture of polycarbonate plastic and epoxy resins.

(2) "Department" means the Department of Health.

(3) "Food package" or "food packaging" means a package or packaging component that is intended for direct food contact.

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

(5) "Ortho-phthalates" means any member of the class of organic chemicals that are esters of phthalic acid containing two carbon chains located in the ortho position.

(6) "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.

(7) “Packaging component” means an individual assembled part of a package, such as any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels, and disposable gloves used in commercial or institutional food service.

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

§ 1672. FOOD PACKAGING

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

(b)(1) Pursuant to 3 V.S.A. chapter 25, the Department may 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. The Department may exempt specific chemicals within the bisphenol class when clear and convincing evidence suggests they are not endocrine-active or otherwise toxic.

(2) 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 in accordance with this subsection if the Department or at least one other state has determined that a safer alternative is readily available in sufficient quantity and at a comparable cost and that 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.

(3) 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 in accordance with this subsection, the prohibition shall not take effect until two years after the Department adopts the rules.

(c) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State 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.

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

§ 1673. CERTIFICATE OF COMPLIANCE

The Attorney General may request a certificate of compliance from a manufacturer of food packaging. Within 30 days after receipt of the Attorney General's request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer's product or products comply with the requirements of this chapter; or

(2) notify persons who are selling a product of the manufacturer's in this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and addresses of those persons notified.

§ 1674. RULEMAKING

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

§ 1675. PENALTIES

(a) A violation of this chapter shall be deemed 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 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.

* * * Rugs, Carpets, and Aftermarket Stain and Water Resistant Treatments * * *

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

CHAPTER 33B. PFAS IN RUGS, CARPETS, AND AFTERMARKET STAIN AND WATER RESISTANT TREATMENTS

§ 1681. DEFINITIONS

As used in this chapter:

(1) "Aftermarket stain and water resistant treatments" means treatments for textile and leather consumer products used in residential settings that have been treated during the manufacturing process for stain, oil, and water resistance but excludes products marketed or sold exclusively for use at industrial facilities during the manufacture of a carpet, rug, clothing, or shoe.

(2) "Department" means the Department of Health.

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

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

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

§ 1682. RUGS AND CARPETS

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

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

§ 1683. AFTERMARKET STAIN AND WATER RESISTANT TREATMENTS

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State aftermarket stain and water resistant treatments for rugs or carpets to which PFAS have been intentionally added in any amount.

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

§ 1684. CERTIFICATE OF COMPLIANCE

The Attorney General may request a certificate of compliance from a manufacturer of rugs, carpets, or aftermarket stain and water resistant treatments. Within 30 days after receipt of the Attorney General’s request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer’s product or products comply with the requirements of this chapter; or

(2) notify persons who are selling a product of the manufacturer’s in this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and addresses of those persons notified.

§ 1685. RULEMAKING

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

§ 1686. PENALTIES

(a) A violation of this chapter shall be deemed 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 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.

* * * Ski Wax * * *

Sec. 4. 18 V.S.A. chapter 33C is added to read:

CHAPTER 33C. PFAS IN SKI WAX

§ 1691. DEFINITIONS

As used in this chapter:

(1) "Department" means the Department of Health.

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

(3) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in section 1661 of this title.

(4) "Ski wax" means a lubricant applied to the bottom of snow runners, including skis and snowboards, to improve their grip and glide properties.

§ 1692. SKI WAX

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State ski wax or related tuning products to which PFAS have been intentionally added in any amount.

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

§ 1693. CERTIFICATE OF COMPLIANCE

The Attorney General may request a certificate of compliance from a manufacturer of ski wax. Within 30 days after receipt of the Attorney General's request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer's product or products comply with the requirements of this chapter; or

(2) notify persons who are selling a product of the manufacturer's in this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and addresses of those persons notified.

§ 1694. RULEMAKING

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

§ 1695. PENALTIES

(a) A violation of this chapter shall be deemed 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 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.

** * * Chemicals of High Concern to Children * * **

Sec. 5. 18 V.S.A. § 1773 is amended to read:

§ 1773. CHEMICALS OF HIGH CONCERN TO CHILDREN

(a) List of chemicals of high concern to children. The following chemicals are designated as chemicals of high concern to children for the purposes of the requirements of this chapter:

** * **

(67) PFHxS (perfluorohexane sulfonic acid).

(68) PFHpA (perfluoroheptanoic acid).

(69) PFNA (perfluorononanoic acid).

(70) Any other chemical designated by the Commissioner as a chemical of high concern to children by rule under section 1776 of this title.

** * * Effective Dates * * **

Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2021, except that Secs. 1 (class B firefighting foam) and 5 (chemicals of high concern to children) shall take effect on July 1, 2022 and Secs. 2 (food packaging), 3 (rugs and carpets), and 4 (ski wax) shall take effect on July 1, 2023.