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S.20

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

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, carpets, and aftermarket stain and
water resistance treatments to which perfluoroalkyl and polyfluoroalkyl
substances have been added; (4) impose restrictions on the manufacture, sale,
and distribution of ski wax; and (5) include perfluoroalkyl and polyfluoroalkyl
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 1663 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 or
10 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 rights
21 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, 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 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.