

Journal of the Senate

WEDNESDAY, MARCH 17, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 34

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 133. An act relating to emergency relief from abuse orders and relinquishment of firearms.

H. 420. An act relating to miscellaneous agricultural subjects.

H. 421. An act relating to animal cruelty investigation response and training.

In the passage of which the concurrence of the Senate is requested.

Bills Referred to Committee on Appropriations

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

S. 48. An act relating to Vermont's adoption of the interstate Nurse Licensure Compact.

S. 124. An act relating to miscellaneous utility subjects.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 126.

By Senator Westman,

An act relating to the collection and recycling of electronic waste.

To the Committee on Natural Resources and Energy.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 133.

An act relating to emergency relief from abuse orders and relinquishment of firearms.

To the Committee on Judiciary.

H. 420.

An act relating to miscellaneous agricultural subjects.

To the Committee on Agriculture.

H. 421.

An act relating to animal cruelty investigation response and training.

To the Committee on Agriculture.

Bill Passed**S. 107.**

Senate bill of the following title was read the third time and passed:

An act relating to confidential information concerning the initial arrest and charge of a juvenile.

Third Reading Ordered**S. 115.**

Senate committee bill entitled:

An act relating to making miscellaneous changes in education laws.

Having appeared on the Calendar for notice for one day, was taken up.

Senator Baruth, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senator Hardy moved to amend the bill as follows:

First: In subsection (a), by striking out the words “the embarrassment of”

Second: In subsection (b), by striking out subdivision (1)(A) in its entirety and inserting in lieu thereof a new subdivision (A) to read as follows:

(A) a majority of gender-neutral bathrooms and bathrooms designated for female students that are generally used by students in any of grades five through 12; and

Third: In subsection (b), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) The school district or independent school, in consultation with the school nurse who provides services to the school, shall determine which of the gender-neutral bathrooms and bathrooms designated for female students to stock with menstrual products and which brands to use.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 1.

Senator MacDonald, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to extending the baseload renewable power portfolio requirement.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 8009 is amended to read:

§ 8009. BASELOAD RENEWABLE POWER PORTFOLIO REQUIREMENT

(a) ~~It~~ As used in this section:

(1) “Baseload renewable power” means a plant that generates electricity from renewable energy; that, during normal operation, is capable of taking all or part of the minimum load on an electric transmission or distribution system; and that produces electricity essentially continuously at a constant rate.

(2) “Baseload renewable power portfolio requirement” means ~~an annual average of 175,000 MWh~~ the actual output of baseload renewable power from

an in-state woody biomass plant that was commissioned prior to September 30, 2009, has a nominal capacity of 20.5 MW, and was in service as of January 1, 2011.

(3) “Biomass” means organic nonfossil material of biological origin constituting a source of renewable energy within the meaning of subdivision 8002(17)(21) of this title.

(4) [Repealed.]

(b) Notwithstanding subsection 8004(a) and subdivision 8005(d)(c)(1) of this title, commencing November 1, 2012, ~~the electricity supplied by each Vermont retail electricity provider to its customers shall include purchase~~ the provider’s pro rata share of the baseload renewable power portfolio requirement, which shall be based on the total Vermont retail kWh sales of all such providers for the previous calendar year. The obligation created by this subsection shall cease on November 1, ~~2022~~ 2024.

* * *

Sec. 2. PUBLIC UTILITY COMMISSION ORDER EXTENSION

All decisions and orders of the former Public Service Board and the Public Utility Commission in the matter Investigation into the Establishment of a Standard-Offer Price for Baseload Renewable Power under the Sustainably Priced Energy Enterprise Development (SPEED) Program, Docket No. 7782, shall remain in full force and effect through October 31, 2024. For years 2023 and 2024, the purchase price shall be the levelized value determined in Docket No. 7782.

Sec. 3. BASELOAD RENEWABLE POWER PORTFOLIO REQUIREMENT; COLOCATION REPORT

On or before January 15, 2023, the owner of the baseload renewable power plant subject to 30 V.S.A. § 8009(b) shall report to the General Assembly on whether a project utilizing the excess thermal energy generated by the plant has been developed and is operational, or when a project utilizing the excess thermal energy generated by the plant will be operational.

Sec. 4. PLANT CLOSURE CONTINGENCY PLAN

On or before March 1, 2022, the Secretary of Commerce and Community Development in consultation with the Commissioner of Forests, Parks, and Recreation shall report to the Senate Committee on Finance and the House Committee on Energy and Technology a contingency plan to address how to reduce the economic impacts that may occur if the baseload renewable power plant closes. The plan shall address how to remediate harm to the workforce impacted by the closure of the plant, the forestry industry, and forest health.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered**S. 16.**

Senator Hooker, for the Committee on Education, to which was referred Senate bill entitled:

An act relating to the creation of the School Discipline Advisory Council.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Nationally, millions of students are removed from the classroom each year for disciplinary reasons.

(2) U.S. Department of Education data reveals that in the 2013–2014 school year, of the 50 million students nationally enrolled in schools:

(A) 2.7 million received in-school suspensions;

(B) 1.6 million received one out-of-school suspension;

(C) 1.1 million received more than one out-of-school suspension; and

(D) 111,215 were expelled.

(3) Exclusionary discipline is used mostly in middle and high schools, and mostly for minor misconduct, according to the Council on State Governments' Justice Center.

(4) Students who are suspended are at significantly higher risk of academic failure, of dropping out of school, and of entering the juvenile justice system according to the Council on State Governments' Justice Center.

(5) Nationally, students of certain racial and ethnic groups and students with disabilities are disciplined at higher rates than their peers, beginning in preschool, as evidenced by 2013–2014 data from the U.S. Department of Education's Office for Civil Rights.

(A) Black students, representing approximately 15 percent of the U.S. student population, are suspended and expelled at a rate two times greater than White students, representing approximately 50 percent of the U.S. student population.

(B) Students with disabilities who have individualized education plans (IEPs) are more likely to be suspended than students without disabilities.

(6)(A) According to the Agency of Education's Report on Exclusionary Discipline Response, January 2017, for the 2015–2016 school year, 3,616 Vermont public school students were excluded, representing 4.7 percent of total enrollment.

(B) The Agency of Education found that students who are non-Caucasian, participate in the free and reduced lunch program, have Section 504 or IEP plans, male, or are English Learners are over-represented in terms of the number who experience exclusion and the number of incidents resulting in exclusion.

(C) Use of school discipline strategies, such as exclusionary discipline, restraint, seclusion, referral to law enforcement, and school-related arrest, varies widely throughout the State.

(7) Valuable data on school discipline in Vermont is largely unavailable and incomplete.

(A) Vermont does not publicly report any discipline data on the Agency of Education website, even if this data has been collected by schools and districts and reported to the Agency of Education.

(B) Some relevant data is not readily available from the Vermont Agency of Education, such as the total number of school days missed by students due to suspension or expulsion.

(C) Other relevant data is not maintained by the Vermont Agency of Education, such as data indicating whether students received educational services during suspensions, beyond federal requirements for certain students with disabilities.

(D) The public school discipline data that Vermont submitted to the U.S. Department of Education's Civil Rights Data Collection for the 2013–2014 school year, while available, is incomplete and may be inaccurate.

(8) More data on school discipline practices in Vermont is necessary to understand what strategies are effective and to encourage the adoption of these strategies at the local level.

Sec. 2. TASK FORCE ON SCHOOL EXCLUSIONARY DISCIPLINE
REFORM; REPORT

(a) Creation. There is created the Task Force on School Exclusionary Discipline Reform. The Task Force shall make recommendations to end suspensions and expulsions for all but the most serious student behaviors and compile data regarding school discipline in Vermont public and approved independent schools in order to inform strategic planning, guide statewide and local decision making and resource allocation, and measure the effectiveness of statewide and local policies and practices.

(b) Membership. The Task Force shall be composed of the Secretary of Education and not more than 20 members appointed by the Secretary of Education, who shall be Vermont residents and a balanced representation of the following:

- (1) educators;
- (2) school administrators;
- (3) high school students;
- (4) special educators;
- (5) parents of students;
- (6) school board members; and

(7) members of community groups working in the areas of racial justice and school discipline reform.

(c) Membership diversity. The Secretary shall seek, in making appointments to the Task Force, racial diversity in membership and shall include representation of public and approved independent schools, including therapeutic schools.

(d) Powers and duties. The Task Force shall make recommendations to end suspensions and expulsions for all but the most serious student behaviors and, taking into account the Vermont Youth Risk Behavior Survey issued by the Department of Health, shall perform the following tasks:

(1) review in-school services and availability of these services in various supervisory unions, approved independent schools, and regions of the State that are available to support students who would otherwise face exclusionary discipline;

(2) recommend additional or more uniform in-school services that should be available to:

(A) students who are under eight years of age where expulsion is not permitted under 16 V.S.A. § 1162 as amended by this act; and

(B) other students who would otherwise face exclusionary discipline;

(3) define the most serious behaviors that, after considering all other alternatives and supports, should remain eligible for suspension or expulsion;

(4) identify best practice procedures that minimize law enforcement contacts for students facing in-school or exclusionary discipline;

(5) compile, on a school-district and approved independent schools basis, the available data and the data collection processes regarding suspensions and expulsions and compile additional data necessary to inform the work of the Task Force, including:

(A) the total number of instances of expulsions and suspensions in each grade operated by the district or approved independent school;

(B) the total number of students in each grade operated by the district or approved independent school who were expelled or suspended and the number of instances of expulsion or suspension, or both, for each student;

(C) the duration of each instance of expulsion and suspension;

(D) the infraction for which each expulsion and suspension was imposed; and

(E) each instance of referral to local law enforcement authorities or the juvenile justice system;

(6) recommend changes to the types of data collected and the data collection processes regarding suspensions and expulsions, as necessary, for the collection of all appropriate data related to school discipline; and

(7) review how other states address exclusionary discipline.

(e) Report. On or before November 30, 2021, the Task Force shall submit a written report to the House and Senate Committees on Education with its findings, addressing each of its duties under subsection (d), and any recommendations for legislative action. The Agency of Education shall share the report and any related insights and best practices with Vermont educators, school administrators, policymakers, agencies, and education and advocacy organizations, and shall post the report on its website.

(f) Meetings.

(1) The Secretary of Education shall call the first meeting of the Task Force to occur on or before August 1, 2021.

(2) The Task Force shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Task Force shall meet not more than six times.

(g) Assistance. The Task Force shall have the administrative, technical, and legal assistance of the Agency of Education.

(h) Compensation and reimbursement. Members of the Task Force shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings of the Task Force.

Sec. 3. APPROPRIATION

The sum of \$15,000.00 is appropriated from the General Fund in fiscal year 2022 to the Agency of Education for per diem and reimbursement of expenses for members of the Task Force on School Exclusionary Discipline Reform created under Sec. 2 of this act and for expenses incurred by the Task Force in carrying out its duties.

Sec. 4. DATA COLLECTION; SECRETARY OF EDUCATION

(a) On or before the first meeting of the Task Force established in Sec. 2 of this act, the Secretary of Education shall collect and distribute to the members of the Task Force all readily available data on suspensions and expulsions from each Vermont public school and approved independent school in academic years 2013–2014 through 2018–2019, including the data specified in subdivision (d)(5) of Sec. 2.

(b) On or before July 1, 2022, the Secretary of Education and the State Board of Education shall incorporate the Task Force's data collection and practices recommendations developed in subdivision (d)(6) of Sec. 2 of this act into their data collection rules and procedures and, to the extent permitted by 20 U.S.C. § 1232g (family educational and privacy rights) and any regulations adopted thereunder, shall require the collection of data as recommended by the Task Force beginning with the 2023–2024 school year.

Sec. 5. OUTCOME ANALYSIS

On or before January 15 of each year from 2025 to 2030, the Secretary of Education shall submit a written report to the House and Senate Committees on Education on suspensions and expulsions from each Vermont public school and approved independent school in the prior school year, including the data specified in subdivision (d)(5) of Sec. 2.

Sec. 6. 16 V.S.A. § 1162 is amended to read:

§ 1162. SUSPENSION OR EXPULSION OF STUDENTS

* * *

(d) Notwithstanding anything to the contrary in this chapter, a student enrolled in a public school who is under eight years of age shall not be expelled from the school; provided, however, that the school may expel the student if the student poses a threat of harm or danger to others in the school.

Sec. 7. REFERRALS OF TRUANCY TO THE STATE'S ATTORNEYS

(a) On or before September 1, 2021, each school district shall report to the Agency of Education the number of cases referred by the district or its staff to a State's Attorney for truancy under 16 V.S.A. § 1127 or 33 V.S.A. § 5309, what mitigation techniques were used by the district to engage with families prior to each referral, and the result of each referral.

(b) On or before December 15, 2021, the Agency of Education shall collate the reports from school districts and report the results to the General Assembly.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to the creation of the Task Force on School Exclusionary Discipline Reform.

And that when so amended the bill ought to pass.

Senator Balint, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Education?, Senators Campion, Balint, Hardy and Hooker moved to amend the recommendation of the Committee on Education as follows:

In Sec. 2, Task Force on Exclusionary Discipline Reform; report, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) Powers and duties.

(1) The Task Force shall make recommendations to end suspensions and expulsions for all but the most serious student behaviors and, taking into

account the Vermont Youth Risk Behavior Survey issued by the Department of Health, shall perform the following tasks:

(A) review in-school services and availability of these services in various supervisory unions, approved independent schools, and regions of the State that are available to support students who would otherwise face exclusionary discipline;

(B) recommend additional or more uniform in-school services that should be available to:

(i) students who are under eight years of age where expulsion is not permitted under 16 V.S.A. § 1162 as amended by this act; and

(ii) other students who would otherwise face exclusionary discipline;

(C) define the most serious behaviors that, after considering all other alternatives and supports, should remain eligible for suspension or expulsion;

(D) identify best practice procedures that minimize law enforcement contacts for students facing in-school or exclusionary discipline;

(E) compile, on a school-district and approved independent schools basis, the available data and the data collection processes regarding suspensions and expulsions and compile additional data necessary to inform the work of the Task Force, including:

(i) the total number of instances of expulsions and suspensions in each grade operated by the district or approved independent school;

(ii) the total number of students in each grade operated by the district or approved independent school who were expelled or suspended and the number of instances of expulsion or suspension, or both, for each student;

(iii) the duration of each instance of expulsion and suspension;

(iv) the infraction for which each expulsion and suspension was imposed;

(v) each instance of referral to local law enforcement authorities, the juvenile justice system, community justice center, State's Attorneys Offices, Department for Children and Families, or other juvenile justice-related authority;

(vi) each instance in which a civil, criminal, or juvenile citation was the consequence for a school-related infraction; and

(vii) each instance in which an excluded student received reeducational services, as well as the duration of reeducational services per day, per week, and per month;

(F) recommend changes to the types of data collected and the data collection processes regarding suspensions and expulsions, as necessary, for the collection of all appropriate data related to school discipline, including recommendations on the types of data collected and data collection processes to reflect the contribution of social determinants to instances of suspensions and expulsions; and

(G) review how other states address exclusionary discipline.

(2) All data specified in subdivision (1)(E) of this subsection shall be in disaggregated format by, at a minimum, the following subgroups and categories to the extent permitted by federal and State privacy laws and to the extent information is available:

(A) White;

(B) Black;

(C) Hispanic;

(D) American Indian/Alaskan Native;

(E) Asian, Pacific Islander/Hawaiian Native;

(F) low-income/free or reduced lunch;

(G) Limited English Proficient or English Language Learner;

(H) migrant status;

(I) students receiving special education services;

(J) students on educational plans under Section 504 of the Rehabilitation Act of 1973;

(K) gender;

(L) sexual orientation;

(M) foster care status;

(N) homeless status; and

(O) grade level.

(3) All data specified in subdivision (1)(E) of this subsection shall be cross-tabulated by, at a minimum, the following subgroups and categories to the extent permitted by federal and State privacy laws and to the extent information is available:

- (A) school;
- (B) school district;
- (C) race;
- (D) low-income/free or reduced lunch;
- (E) Limited English Proficient or English Language Learner;
- (F) migrant status;
- (G) students receiving special education services;
- (H) students on educational plans under Section 504 of the Rehabilitation Act of 1973;
- (I) gender;
- (J) sexual orientation;
- (K) foster care status;
- (L) homeless status;
- (M) grade level;
- (N) behavior infraction code;
- (O) intervention applied, including restraint and inclusion; and
- (P) educational services provided.

Which was agreed to.

Thereupon, the recommendation of amendment of the Committee on Education, as amended, was agreed to and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 20.

Senator Lyons, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

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

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * 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 or 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 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 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) “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

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.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Adjournment

On motion of Senator Balint, the Senate adjourned until eleven o'clock in the morning on Thursday, March 18, 2021.