

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Human Services to which was referred Senate Bill
3 No. 20 entitled “An act relating to restrictions on perfluoroalkyl and
4 polyfluoroalkyl substances and other chemicals of concern in consumer
5 products” respectfully reports that it has considered the same and recommends
6 that the House propose to the Senate that the bill be amended by striking out all
7 after the enacting clause and inserting in lieu thereof the following:

8 * * * PFAS in Class B Firefighting Foam * * *

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

10 CHAPTER 33. PFAS IN FIREFIGHTING AGENTS AND EQUIPMENT

11 § 1661. DEFINITIONS

12 As used in this chapter:

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

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

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

1 (4) “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 (5) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a
5 class of fluorinated organic chemicals containing at least one fully fluorinated
6 carbon atom.

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

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

14 § 1662. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

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

18 § 1663. RESTRICTION ON MANUFACTURE, SALE, AND

19 DISTRIBUTION; EXCEPTIONS

20 (a)(1) Unless otherwise required under federal law, a manufacturer of class
21 B firefighting foam shall not manufacture, sell, offer for sale, or distribute for

1 sale or use in this State class B firefighting foam to which PFAS have been
2 intentionally added.

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

7 (b) A person operating a terminal after January 1, 2024, and who seeks to
8 purchase class B firefighting foam containing intentionally added PFAS for the
9 purpose of fighting emergency class B fires, may apply jointly to the
10 Department of Public Safety’s Division of Fire Safety and to the Department
11 of Environmental Conservation for a temporary exemption from the
12 restrictions on the manufacture, sale, offer for sale, or distribution of class B
13 firefighting foam for use at a terminal. An initial exemption shall not exceed a
14 two-year term and may only be extended jointly by the Department of Public
15 Safety’s Division of Fire Safety and the Department of Environmental
16 Conservation for one additional two-year term. The Department of Public
17 Safety’s Division of Fire Safety and the Department of Environmental
18 Conservation may jointly grant an exemption under this subsection if the
19 applicant provides:

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

1 (A) does not contain intentionally added PFAS; and

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

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

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

10 (4) an explanation of how:

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

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

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

1 § 1664. SALE OF PERSONAL PROTECTIVE EQUIPMENT

2 CONTAINING PFAS

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

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

12 § 1665. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

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

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

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

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

6 § 1666. CERTIFICATE OF COMPLIANCE

7 The Attorney General may request a certificate of compliance from a
8 manufacturer of class B firefighting foam containing intentionally added PFAS
9 or firefighting personal protective equipment. Within 30 days after receipt of
10 the Attorney General’s request for a certificate of compliance, the
11 manufacturer shall:

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

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

19 § 1667. PENALTIES

20 (a) A violation of this chapter shall be deemed a violation of the Consumer
21 Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same

1 authority to make rules, conduct civil investigations, enter into assurances of
2 discontinuance, and bring civil actions, and private parties have the same rights
3 and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

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

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

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

8 CHAPTER 33A. CHEMICALS OF CONCERN IN FOOD PACKAGING

9 § 1671. DEFINITIONS

10 As used in this chapter:

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

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

15 (3) “Food packaging” means a package or packaging component that is
16 intended for direct food contact.

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

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

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

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

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

12 § 1672. FOOD PACKAGING

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

17 (b)(1) Pursuant to 3 V.S.A. chapter 25, the Department may adopt rules
18 prohibiting a manufacturer, supplier, or distributor from selling or offering for
19 sale or for promotional distribution a food package or the packaging
20 component of a food package to which bisphenols have been intentionally
21 added and are present in any amount.

1 (2) If the Department prohibits a manufacturer, supplier, or distributor
2 from selling or offering for sale or for promotional distribution a food package
3 or the packaging component of a food package in accordance with this
4 subsection, the prohibition shall not take effect until two years after the
5 Department adopts the rules. The Department may exempt specific chemicals
6 within the bisphenol class as safer alternatives when clear and convincing
7 evidence suggests they are not endocrine-active or otherwise toxic.

8 (c) A manufacturer, supplier, or distributor shall not manufacture, sell,
9 offer for sale, distribute for sale, or distribute for use in this State a food
10 package that includes inks, dyes, pigments, adhesives, stabilizers, coatings,
11 plasticizers, or any other additives to which ortho-phthalates have been
12 intentionally added and are present in any amount.

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

14 § 1673. CERTIFICATE OF COMPLIANCE

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

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

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

5 § 1674. RULEMAKING

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

9 § 1675. PENALTIES

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

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

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

18 Treatments * * *

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

20 CHAPTER 33B. PFAS IN RUGS, CARPETS, AND AFTERMARKET

21 STAIN AND WATER RESISTANT TREATMENTS

1 § 1681. DEFINITIONS

2 As used in this chapter:

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

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

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

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

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

14 § 1682. RUGS AND CARPETS

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

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

1 § 1683. AFTERMARKET STAIN AND WATER RESISTANT

2 TREATMENTS

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 aftermarket
5 stain and water resistant treatments for rugs or carpets to which PFAS have
6 been intentionally added in any amount.

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

8 § 1684. CERTIFICATE OF COMPLIANCE

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

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

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

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 § 1686. PENALTIES

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

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

13 * * * Ski Wax * * *

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

15 CHAPTER 33C. PFAS IN SKI WAX

16 § 1691. DEFINITIONS

17 As used in this chapter:

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

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

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

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

5 § 1692. SKI WAX

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

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

11 § 1693. CERTIFICATE OF COMPLIANCE

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

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

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

1 § 1694. 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 § 1695. PENALTIES

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

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

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

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

15 § 1773. CHEMICALS OF HIGH CONCERN TO CHILDREN

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

19 * * *

20 (67) PFHxS (perfluorohexane sulfonic acid).

21 (68) PFHpA (perfluoroheptanoic acid).

1 (69) PFNA (perfluorononanoic acid).

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

4 * * * Effective Dates * * *

5 Sec. 6. EFFECTIVE DATES

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

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(Committee vote: _____)

Representative _____
FOR THE COMMITTEE