

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, but not later than  
21          October 1, 2023, a manufacturer of class B firefighting foam shall not

1 manufacture, sell, offer for sale, or distribute for sale or use in this State class  
2 B firefighting foam to which PFAS have been 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 to the Department of  
10 Environmental Conservation for a temporary exemption from the restrictions  
11 on the manufacture, sale, offer for sale, or distribution of class B firefighting  
12 foam for use at a terminal. An exemption shall not exceed one year. The  
13 Department of Environmental Conservation, in consultation with the  
14 Department of Health, may grant an exemption under this subsection if the  
15 applicant provides:

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

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

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

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

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

7           (4) an explanation of how:

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

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

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

16           § 1664. SALE OF PERSONAL PROTECTIVE EQUIPMENT

17                   CONTAINING PFAS

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

1 the personal protective equipment contains PFAS and the reason PFAS are  
2 added to the equipment.

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

6 § 1665. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

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

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

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

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

21 § 1666. CERTIFICATE OF COMPLIANCE

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

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

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

12       § 1667. PENALTIES

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

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

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 any member of a class of industrial chemicals  
7           that contain two hydroxyphenyl groups. Bisphenols are used primarily in the  
8           manufacture of polycarbonate plastic and epoxy resins.

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

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

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

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

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

1           (7) “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, and  
4           disposable gloves used in commercial or institutional food service.

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

7           § 1672. FOOD PACKAGING

8           (a) 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 to which PFAS have been intentionally added and are present in any  
11           amount.

12           (b)(1) Pursuant to 3 V.S.A. chapter 25, the Department may adopt rules  
13           prohibiting a manufacturer, supplier, or distributor from selling or offering for  
14           sale or for promotional distribution a food package or the packaging  
15           component of a food package to which bisphenols have been intentionally  
16           added and are present in any amount. The Department may exempt specific  
17           chemicals within the bisphenol class when clear and convincing evidence  
18           suggests they are not endocrine-active or otherwise toxic.

19           (2) The Department may only prohibit a manufacturer, supplier, or  
20           distributor from selling or offering for sale or for promotional distribution a  
21           food package or the packaging component of a food package in accordance



1 with this subsection if the Department or at least one other state has determined  
2 that a safer alternative is readily available in sufficient quantity and at a  
3 comparable cost and that the safer alternative performs as well as or better than  
4 bisphenols in a specific application of bisphenols to a food package or the  
5 packaging component of a food package.

6 (3) If the Department prohibits a manufacturer, supplier, or distributor  
7 from selling or offering for sale or for promotional distribution a food package  
8 or the packaging component of a food package in accordance with this  
9 subsection, the prohibition shall not take effect until two years after the  
10 Department adopts the rules.

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

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

17 § 1673. CERTIFICATE OF COMPLIANCE

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



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

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

3 STAIN AND WATER RESISTANT TREATMENTS

4 § 1681. DEFINITIONS

5 As used in this chapter:

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

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

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

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

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

17 § 1682. RUGS AND CARPETS

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 a residential  
20 rug or carpet to which PFAS have been intentionally added in any amount.

21 (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) 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 sale is prohibited because the product does not comply with this  
18            chapter and submit to the Attorney General a list of the names and addresses of  
19            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) 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 sale is prohibited because the product does not comply with this  
20               chapter and submit to the Attorney General a list of the names and addresses of  
21               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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13           (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

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Representative \_\_\_\_\_

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FOR THE COMMITTEE