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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.

1           § 1664. SALE OF PERSONAL PROTECTIVE EQUIPMENT

**Deleted:** 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.

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 if the personal protective equipment contains  
6 PFAS. The written notice shall include a statement that the personal protective  
7 equipment contains PFAS and the reason PFAS are added to the equipment.

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

11       § 1665. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

12           (a) A manufacturer of class B firefighting foam prohibited pursuant to  
13 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. ASSISTANCE TO STATE AGENCIES AND MUNICIPALITIES

7           (a) The Department shall assist other State agencies and municipalities to  
8 avoid purchasing or using class B firefighting foams to which PFAS have been  
9 intentionally added by requesting information from manufacturers and posting such  
10 information on a public website. The Department shall assist other State agencies,  
11 town  
12

**Deleted:** 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.

**Deleted:** CERTIFICATE OF COMPLIANCE

**Deleted:** 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 of products meet the requirements of this chapter.  
(b)

13 fire districts, and other municipalities to give priority and preference to the

14 purchase of personal protective equipment that does not contain PFAS.

Commented [ED2]: What does this mean?

15 § 1667. PENALTIES

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

1 (1) No prohibition on the sale, manufacture, or  
 distribution for sale, or for promotional distribution a  
 2 food package or the packaging component of a food package in accordance  
 with this subsection in the State, shall take effect sooner than two years after  
 the adoption of a rule adopted under this section unless the Commissioner  
 determines that an earlier effective date is required to protect human health and  
 the new effective date is established by rule.

3

4 (c) A manufacturer, supplier, or distributor shall not manufacture, sell,  
 5 offer for sale, distribute for sale, or distribute for use in this State a food  
 6 package that includes inks, dyes, pigments, adhesives, stabilizers, coatings,  
 7 plasticizers, or any other additives to which phthalates have been intentionally  
 8 added in any amount greater than an incidental presence.

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

10 § 1673. CERTIFICATE OF COMPLIANCE

11 A manufacturer subject to the prohibitions under this chapter shall develop  
 12 a certificate of compliance under this section. A certificate of compliance  
 13 attests that a manufacturer's product or products meet the requirements of this  
 chapter.

1 § 1674. RULEMAKING

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Deleted: 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 manufacturer determines that a safer alternative to bisphenols is not available.

Commented [ED5]: What we talk about when we talk about certificates of compliance.

Deleted: If the Department requests such a certificate, the manufacturer shall provide the certificate within 30 calendar days after the request is made.

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  
chapter.

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

**Deleted:** If the Department requests such a certificate, the manufacturer shall provide the certificate within 30 calendar days after the request is made. (... [2])

8 § 1691. DEFINITIONS

9 As used in this chapter:

- 10 (1) “Department” means the Department of Health.
- 11 (2) “Intentionally added” means the addition of a chemical in a product  
12 that serves an intended function in the product component.
- 13 (3) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” has the  
14 same meaning as in section 1661 of this title.
- 15 (4) “Ski wax” means a lubricant applied to the bottom of snow runners,  
16 including skis and snowboards, to improve their grip and glide properties.

17 § 1692. SKI WAX

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

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

2 § 1693. CERTIFICATE OF COMPLIANCE

3 A manufacturer subject to the prohibitions under this chapter shall develop  
4 a certificate of compliance under this section. A certificate of compliance  
5 attests that a manufacturer’s product or products meet the requirements of this  
6 chapter.

7 § 1694. RULEMAKING

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

**Deleted:** If the Department requests such a certificate,  
the manufacturer shall  
provide the certificate within 30 calendar days after the  
request is made.

10 chapter.

11 \* \* \* Chemicals of High Concern to Children \* \* \*

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

13

**Let us discuss.**

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.

**Deleted:** <#>§ 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:

18-> \* \* \*

(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.

5-> \* \* \*

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