

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare 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 bill be amended by striking out all after the enacting clause and
7 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) “Department” means the Vermont Department of Health.

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

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

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

5 (6) “Municipality” means any city, town, incorporated village, town fire
6 district, or other political subdivision that provides firefighting services
7 pursuant to general law or municipal charter.

8 (7) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a
9 class of fluorinated organic chemicals containing at least one fully fluorinated
10 carbon atom.

11 § 1662. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

12 A person, municipality, or State agency shall not discharge or otherwise use
13 for training purposes class B firefighting foam that contains intentionally
14 added PFAS.

15 § 1663. RESTRICTION ON MANUFACTURE, SALE, AND

16 DISTRIBUTION; EXCEPTIONS

17 (a) A manufacturer of class B firefighting foam shall not manufacture, sell,
18 offer for sale, or distribute for sale or use in this State class B firefighting foam
19 to which PFAS have been intentionally added.

20 (b) Notwithstanding subsection (a) of this section, any manufacture, sale,
21 or distribution of class B firefighting foam where the inclusion of PFAS is

1 required by federal law, including the requirements of 14 C.F.R. 139.317
2 (aircraft rescue and firefighting: equipment and agents), as that section existed
3 as of January 1, 2020, is allowed. In the event that applicable federal
4 regulations change after that date to allow the use of alternative firefighting
5 agents that do not contain PFAS, the Department shall adopt rules that restrict
6 PFAS for the manufacture, sale, and distribution of firefighting foam for uses
7 that are addressed by federal regulation.

8 § 1664. SALE OF PERSONAL PROTECTIVE EQUIPMENT

9 CONTAINING PFAS

10 (a) A manufacturer or other person that sells firefighting equipment to any
11 person, municipality, or State agency shall provide written notice to the
12 purchaser at the time of sale if the personal protective equipment contains
13 PFAS. The written notice shall include a statement that the personal protective
14 equipment contains PFAS and the reason PFAS are added to the equipment.

15 (b) The manufacturer or person selling personal protective equipment and
16 the purchaser of the personal protective equipment shall retain the notice for at
17 least three years from the date of the transaction. Upon request of the
18 Department, a person, manufacturer, or purchaser shall furnish the notice or
19 written copies and associated sales documentation to the Department within
20 60 days.

21 § 1665. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

1 (a) A manufacturer of class B firefighting foam prohibited pursuant to
2 section 1663 of this title shall notify, in writing, persons that sell the
3 manufacturer’s products in this State about the provisions of this chapter not
4 less than one year prior to the effective date of the restrictions.

5 (b) A manufacturer that produces, sells, or distributes a class B firefighting
6 foam prohibited pursuant to section 1663 of this title shall recall the product
7 and reimburse the retailer or any other purchaser for the product.

8 § 1666. CERTIFICATE OF COMPLIANCE

9 (a) The Department may request a certificate of compliance from a
10 manufacturer of class B firefighting foam or firefighting personal protective
11 equipment. A certificate of compliance attests that a manufacturer’s product or
12 products meet the requirements of this chapter.

13 (b) The Department shall assist other State agencies and municipalities to
14 avoid purchasing or using class B firefighting foams to which PFAS have been
15 intentionally added. The Department shall assist other State agencies, town
16 fire districts, and other municipalities to give priority and preference to the
17 purchase of personal protective equipment that does not contain PFAS.

18 § 1667. PENALTIES

19 A violation of this chapter shall be deemed a violation of the Consumer
20 Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same
21 authority to make rules, conduct civil investigations, enter into assurances of

1 discontinuance, and bring civil actions, and private parties have the same rights
2 and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

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

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

5 CHAPTER 33A. CHEMICALS OF CONCERN IN FOOD PACKAGING

6 § 1671. DEFINITIONS

7 As used in this chapter:

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

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

12 (3) “Food packaging” means a package that is designed for direct food
13 contact, including a food or beverage product that is contained in a food
14 package or to which a food package is applied, a packaging component of a
15 food package, and plastic disposable gloves used in commercial or institutional
16 food service.

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) “Package” means a container providing a means of marketing,
20 protecting, or handling a product and shall include a unit package, an
21 intermediate package, and a shipping container. “Package” also means

1 unsealed receptacles, such as carrying cases, crates, cups, pails, rigid foil and
2 other trays, wrappers and wrapping films, bags, and tubs.

3 (6) “Packaging component” means an individual assembled part of a
4 package, such as any interior or exterior blocking, bracing, cushioning,
5 weatherproofing, exterior strapping, coatings, closures, inks, and labels.

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

8 (8) “Phthalates” means any member of the class of organic chemicals
9 that are esters of phthalic acid.

10 § 1672. FOOD PACKAGING

11 (a) 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 to which PFAS have been intentionally added in any amount.

14 (b) Pursuant to 3 V.S.A. chapter 25, the Department may adopt rules
15 prohibiting a manufacturer, supplier, or distributor from selling or offering for
16 sale or for promotional distribution a food package or the packaging
17 component of a food package to which bisphenols have been intentionally
18 added in any amount greater than an incidental presence.

19 (1) 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 has determined that a safer alternative is
2 readily available in sufficient quantity and at a comparable cost and that the
3 safer alternative performs as well as or better than bisphenols in a specific
4 application of bisphenols to a food package or the packaging component of a
5 food package.

6 (2) 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 determines that a safer alternative to bisphenols is available.

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 phthalates have been intentionally
15 added in any amount greater than an incidental presence.

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

17 § 1673. CERTIFICATE OF COMPLIANCE

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

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

3 § 1674. RULEMAKING

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

7 * * * Rugs, Carpets, and Aftermarket Stain and Water Resistant
8 Treatments * * *

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

10 CHAPTER 33B. PFAS IN RUGS, CARPETS, AND AFTERMARKET
11 STAIN AND WATER RESISTANT TREATMENTS

12 § 1681. DEFINITIONS

13 As used in this chapter:

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

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

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

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

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

4 § 1682. RUGS AND CARPETS

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

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

9 § 1683. AFTERMARKET STAIN AND WATER RESISTANT

10 TREATMENTS

11 (a) A manufacturer, supplier, or distributor shall not manufacture, sell,
12 offer for sale, distribute for sale, or distribute for use in this State aftermarket
13 stain and water resistant treatments for rugs or carpets to which PFAS have
14 been intentionally added in any amount.

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

16 § 1684. CERTIFICATE OF COMPLIANCE

17 A manufacturer subject to the prohibitions under this chapter shall develop
18 a certificate of compliance under this section. A certificate of compliance
19 attests that a manufacturer’s product or products meet the requirements of this
20 chapter. If the Department requests such a certificate, the manufacturer shall
21 provide the certificate within 30 calendar days after the request is made.

1 § 1685. RULEMAKING

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

5 * * * Ski Wax * * *

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

7 CHAPTER 33C. PFAS IN SKI WAX

8 § 1691. DEFINITIONS

9 As used in this chapter:

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

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

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

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

17 § 1692. SKI WAX

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

1 atom or a chemical compound meant to replace perfluoroalkyl and
2 polyfluoroalkyl substances that has similar chemical properties.

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

5 * * *

6 * * * Effective Dates * * *

7 Sec. 6. EFFECTIVE DATES

8 This act shall take effect on July 1, 2021, except that Secs. 1 (class B
9 firefighting foam) and 5 (chemicals of high concern to children) shall take
10 effect on July 1, 2022 and Secs. 2 (food packaging), 3 (rugs and carpets), and
11 4 (ski wax) shall take effect on July 1, 2023.

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19 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE