

**S.20: An act relating to restrictions on perfluoroalkyl and polyfluoroalkyl substances and other chemicals of concern in consumer products**

	As Passed the Senate	As Passed House
<p><b>Sec. 1: PFAS in Class B Firefighting Foam</b></p>	<ul style="list-style-type: none"> <li>• <b>Relevant Definition.</b> “PFAS” means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.</li> <li>• <b>Discharge/use.</b> Prohibits a person, municipality, or State agency from discharging or otherwise using for training purposes class B firefighting foam that contains intentionally added PFAS.</li> <li>• <b>Restriction on manufacture, sale, and distribution.</b> Prohibits a manufacturer of class B firefighting foam from manufacturing, selling, offering for sale, or distributing for sale or use in Vermont class B firefighting foam to which PFAS have been intentionally added. <ul style="list-style-type: none"> <li>○ Exception. The 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.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• <b>Amended definitions.</b> <ul style="list-style-type: none"> <li>○ Removes definition of “Department”</li> <li>○ Adds definition of “terminal”</li> </ul> </li> <li>• <b>Discharge/use.</b> Prohibits a person, municipality, or State agency from discharging or otherwise using for training <u>or testing</u> purposes class B firefighting foam that contains intentionally added PFAS.</li> <li>• <b>Restriction on manufacture, sale, and distribution.</b> <u>Unless required under federal law, but no later than 10/1/23,</u> a manufacturer of class B firefighting foam is prohibited from manufacturing, selling, offering for sale, or distributing for sale or use in Vermont class B firefighting foam to which PFAS have been intentionally added. <ul style="list-style-type: none"> <li>○ <b>Terminal exception:</b> This restriction does not apply to class B foam containing intentionally added PFAS at a terminal until Jan. 1, 2024.</li> <li>○ A person operating a terminal after Jan. 1, 2024, who seeks to purchase class B foam containing intentionally added PFAS for fighting emergency class B fires, may apply to DEC for a temporary one-year exemption. DEC, in consultation w/ VDH, may grant applicant if applicant provides: <ul style="list-style-type: none"> <li>▪ Clear &amp; convincing evidence that there is not a commercially available alternative that does not contain intentionally added PFAS and is capable of suppressing large atmospheric tank fire or emergency class B fire;</li> <li>▪ Information on the amount of class B foam containing intentionally added PFAS is annually stored, used, or released at the terminal;</li> <li>▪ Report on the progress being made by the applicant to transition at the terminal to class B</li> </ul> </li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• <b>PPE.</b> Requires a manufacturer or other person that sells firefighting equipment to any person, municipality, or State agency to provide notice to the purchaser at the time of sale if the personal protective equipment (PPE) contains PFAS. The notice shall include a statement that the PPE contains PFAS and the reason PFAS are added to the equipment.             <ul style="list-style-type: none"> <li>○ Requires the manufacturer or person selling PPE and the purchaser to retain the notice for at least 3 years from the date of the sale. If the Department of Health requests, a person, manufacturer, or purchaser shall furnish the notice or written copies and associated sales documentation to the Department within 60 days.</li> </ul> </li> <li>• <b>Notification/Recall.</b> Requires a manufacturer of prohibited class B firefighting foam to notify persons that sell the manufacturer’s products in Vermont about the provisions of this chapter not less than one year prior to the effective date of the restrictions.             <ul style="list-style-type: none"> <li>○ Requires a manufacturer that produces, sells, or distributes prohibited class B firefighting foam to recall the product and reimburse the retailer or any other purchaser for the product.</li> </ul> </li> <li>• <b>Certificate of compliance.</b> Allows the Department to request a certificate of compliance from a manufacturer of class B firefighting foam or firefighting PPE, which attests that a manufacturer’s product or products meet the requirements of the chapter.             <ul style="list-style-type: none"> <li>○ Requires the Department to assist other State agencies and municipalities to avoid purchasing or using prohibited class B firefighting foams. The Department</li> </ul> </li> </ul>	<p>foam that does not contain intentionally added PFAS; and</p> <ul style="list-style-type: none"> <li>▪ Explanation of containment plan and containment measures.</li> <li>○ Section does not prohibit a terminal from providing class B foam in the form of aid to another terminal in the event of a class B fire.</li> </ul> <ul style="list-style-type: none"> <li>• <b>PPE.</b> House version the same, except House version removes requirement that VDH may request and that person, manufacturer, or purchaser furnish notice required under this section.</li> </ul> <ul style="list-style-type: none"> <li>• <b>Notification/Recall.</b> Subsection (a) is the same.             <ul style="list-style-type: none"> <li>○ <u>Unless for use at terminal (prior to when section 1663 applies to terminals),</u> a manufacturer that produces, sells, or distributes class B firefighting foam containing intentionally added PFAS shall recall the product and reimburse the retailer or any other purchaser for the product <u>and issue either a press release or notice on the manufacturer’s website describing the product recall and reimbursement.</u></li> </ul> </li> <li>• <b>Certificate of compliance.</b> Authorizes the AG to request a certificate of compliance from a manufacturer. Within 30 days of request, the manufacturer shall either:             <ul style="list-style-type: none"> <li>○ Provide AG with certificate attesting that the manufacturer’s product(s) comply with the chapter; or</li> <li>○ Notify persons who are selling a product of the manufacturer in VT that the sale is prohibited b/c the product does not comply with the chapter and submit to</li> </ul> </li> </ul>
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	<p>shall assist other State agencies, town fire districts, and other municipalities to give priority and preference to the purchase of PPE that does not contain PFAS.</p> <ul style="list-style-type: none"> <li>• <b>Penalties.</b> A violation of this chapter is considered 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 the Consumer Protection Act.</li> </ul>	<p>the AG a list of names and addresses of those persons notified.</p> <ul style="list-style-type: none"> <li>• <b>Penalties.</b> Subsection (a) is the same. <ul style="list-style-type: none"> <li>○ Adds subsection (b): This section shall not be construed to preclude or supplant any other statutory or common law remedies.</li> </ul> </li> </ul>
<p><b>Sec. 2: PFAS, Phthalates, and Bisphenols in Food Packaging</b></p>	<ul style="list-style-type: none"> <li>• <b>Relevant Definitions:</b> <ul style="list-style-type: none"> <li>○ “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.</li> <li>○ “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.</li> <li>○ “Phthalates” means any member of the class of organic chemicals that are esters of phthalic acid.</li> </ul> </li> <li>• Prohibits a manufacturer, supplier, or distributor from manufacturing, selling, offering for sale, distributing for sale, or distributing for use in Vermont a food package to which <b>PFAS</b> have been intentionally added in any amount.</li> <li>• Allows the Department of Health to 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 <b>bisphenols</b> have been intentionally added in any amount greater than an incidental presence. <ul style="list-style-type: none"> <li>○ The Department may only prohibit a manufacturer, supplier, or distributor from selling or offering for sale</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• <b>Amended definitions.</b> <ul style="list-style-type: none"> <li>○ “Food package” or “food packaging” means a package or packaging component that is intended for direct food contact.</li> <li>○ “Ortho-phthalates” means any member of the class of organic chemicals that are esters of phthalic acid containing two carbon chains located in the ortho position.</li> <li>○ “Packaging component” adds disposable gloves used in commercial or institutional food service.</li> </ul> </li> <li>• Prohibits a manufacturer, supplier, or distributor from manufacturing, selling, offering for sale, distributing for sale, or distributing for use in Vermont a food package to which <b>PFAS</b> have been intentionally added <u>and are present</u> in any amount.</li> <li>• Allows the Department of Health to 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 <b>bisphenols</b> have been intentionally added <u>and are present</u> in any amount greater than an incidental presence. <u>The Department may exempt specific chemicals w/in the</u></li> </ul>

	<p>or for promotional distribution a food package or the packaging component of a food package, if it has determined that:</p> <ul style="list-style-type: none"> <li>▪ a safer alternative is readily available in sufficient quantity and at a comparable cost; and</li> <li>▪ 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.</li> </ul> <p>○ 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, the prohibition shall not take effect until two years after the Department determines that a safer alternative to bisphenols is available.</p> <ul style="list-style-type: none"> <li>• Prohibits a manufacturer, supplier, or distributor from manufacturing, selling, offering for sale, distributing for sale, or distributing for use in Vermont a food package that includes inks, dyes, pigments, adhesives, stabilizers, coatings, plasticizers, or any other additives to which <b>phthalates</b> have been intentionally added in any amount greater than an incidental presence.</li> <li>• This section shall not apply to the sale or resale of used products</li> <li>• <b>Certificate of compliance.</b> Requires a manufacturer impacted by this chapter to develop a certificate of compliance, which attests that a manufacturer’s product or products meet the requirements of the chapter. If the Department of Health were to request such a certificate, the manufacturer must provide it within 30 calendar days of receipt of the request.</li> </ul>	<p><u>bisphenol class when clear and convincing evidence suggests they are not endocrine-active or otherwise toxic.</u></p> <ul style="list-style-type: none"> <li>○ 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 if the Department <u>or another state</u> has determined that a safer alternative is readily in sufficient quantity and at a comparable cost and 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.</li> <li>○ 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, the prohibition shall not take effect until two years <del>after the Department determines that a safer alternative to bisphenols is available.</del></li> </ul> <ul style="list-style-type: none"> <li>• Prohibits a manufacturer, supplier, or distributor from manufacturing, selling, offering for sale, distributing for sale, or distributing for use in Vermont a food package that includes inks, dyes, pigments, adhesives, stabilizers, coatings, plasticizers, or any other additives to which <b>ortho-phthalates</b> have been intentionally added <u>and are present</u> in any amount greater than an incidental presence.</li> <li>• <b>Certificate of compliance.</b> Authorizes the AG to request a certificate of compliance from a manufacturer. Within 30 days of request, the manufacturer shall either:             <ul style="list-style-type: none"> <li>○ Provide AG with certificate attesting that the manufacturer’s product(s) comply with the chapter; or</li> <li>○ Notify persons who are selling a product of the manufacturer in VT that the sale is prohibited b/c the product does not comply with the chapter and submit</li> </ul> </li> </ul>
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	<ul style="list-style-type: none"> <li>• <b>Rulemaking.</b> Requires the Commissioner of Health to adopt any rules necessary for the implementation, administration, and enforcement of the chapter.</li> </ul>	<p>to the AG a list of names and addresses of those persons notified.</p> <ul style="list-style-type: none"> <li>• <b>Rulemaking.</b> [Same]</li> <li>• <b>Penalties.</b> A violation of the chapter is violation of the Consumer Protection Act. The AG 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 the Consumer Protection Act.             <ul style="list-style-type: none"> <li>○ This section shall not be construed to preclude or supplant any other statutory or common law remedies.</li> </ul> </li> </ul>
<p><b>Sec. 3: Rugs and Carpets</b></p>	<ul style="list-style-type: none"> <li>• <b>Prohibition.</b> Prohibits a manufacturer, supplier, or distributor from manufacturing, selling, offering for sale, distributing for sale, or distributing for use in Vermont a residential rug or carpet to which PFAS have been intentionally added in any amount. This section shall not apply to the sale or resale of used products.</li> <li>• <b>Certificate of compliance.</b> Requires a manufacturer impacted by this chapter to develop a certificate of compliance, which attests that a manufacturer’s product or products meet the requirements of the chapter. If the Department of Health were to request such a certificate, the manufacturer must provide it within 30 calendar days of receipt of the request.</li> <li>• <b>Rulemaking.</b> Requires the Commissioner of Health to adopt any rules necessary for the implementation, administration, and enforcement of the chapter.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Prohibition.</b> [Same as Senate]</li> <li>• <b>Certificate of compliance amended.</b> Authorizes the AG to request a certificate of compliance from a manufacturer. Within 30 days of request, the manufacturer shall either:             <ul style="list-style-type: none"> <li>○ Provide AG with certificate attesting that the manufacturer’s product(s) comply with the chapter; or</li> <li>○ Notify persons who are selling a product of the manufacturer in VT that the sale is prohibited b/c the product does not comply with the chapter and submit to the AG a list of names and addresses of those persons notified.</li> </ul> </li> <li>• <b>Rulemaking.</b> [Same as Senate]</li> <li>• <b>Penalties added.</b> A violation of the chapter is violation of the Consumer Protection Act. The AG has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions,</li> </ul>

		<p>and private parties have the same rights and remedies as provided under the Consumer Protection Act.</p> <ul style="list-style-type: none"> <li>○ This section shall not be construed to preclude or supplant any other statutory or common law remedies.</li> </ul>
<p><b>Sec. 4: Ski Wax</b></p>	<ul style="list-style-type: none"> <li>● <b>Prohibition.</b> Prohibits a manufacturer, supplier, or distributor from manufacturing, selling, offering for sale, distributing for sale, or distributing for use in Vermont ski wax or related tuning products to which PFAS have been intentionally added in any amount. This section shall not apply to the sale or resale of used products.</li> <li>● <b>Certificate of compliance.</b> Requires a manufacturer impacted by this chapter to develop a certificate of compliance, which attests that a manufacturer’s product or products meet the requirements of the chapter. If the Department of Health were to request such a certificate, the manufacturer must provide it within 30 calendar days of receipt of the request.</li> <li>● <b>Rulemaking.</b> Requires the Commissioner of Health to adopt any rules necessary for the implementation, administration, and enforcement of the chapter.</li> </ul>	<ul style="list-style-type: none"> <li>● <b>Prohibition.</b> [Same as Senate]</li> <li>● <b>Certificate of compliance amended.</b> Authorizes the AG to request a certificate of compliance from a manufacturer. Within 30 days of request, the manufacturer shall either: <ul style="list-style-type: none"> <li>○ Provide AG with certificate attesting that the manufacturer’s product(s) comply with the chapter; or</li> <li>○ Notify persons who are selling a product of the manufacturer in VT that the sale is prohibited b/c the product does not comply with the chapter and submit to the AG a list of names and addresses of those persons notified.</li> </ul> </li> <li>● <b>Rulemaking.</b> [Same as Senate]</li> <li>● <b>Penalties added.</b> A violation of the chapter is violation of the Consumer Protection Act. The AG 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 the Consumer Protection Act. <ul style="list-style-type: none"> <li>○ This section shall not be construed to preclude or supplant any other statutory or common law remedies.</li> </ul> </li> </ul>

<p><b>Sec. 5. Chemicals of High Concern to Children</b></p>	<ul style="list-style-type: none"> <li>• Adds class of PFAS to previously enacted list of chemicals of high concern to children (meaning this would require a manufacturer of a children’s product containing intentionally added PFAS or PFAS in an amount that exceeds a certain threshold to provide notice of the inclusion to the Department of Health)</li> </ul>	<ul style="list-style-type: none"> <li>• Adds the following three PFAS to previously enacted list of chemicals of high concern to children (versus the entire class):             <ul style="list-style-type: none"> <li>○ PFHxS (perfluorohexane sulfonic acid)</li> <li>○ PFHpA (perfluoroheptanoic acid)</li> <li>○ PFNA (perfluorononanoic acid)</li> </ul> </li> </ul>
<p><b>Sec. 6: Effective Dates</b></p>	<ul style="list-style-type: none"> <li>• Act takes effect July 1, 2021, except:             <ul style="list-style-type: none"> <li>○ Secs. 1 (Class B Firefighting Foam) and 5 (Chemicals of High Concern to Children) take effect on July 1, 2022; and</li> <li>○ Secs. 2 (Food Packaging) and 3 (Rugs and Carpets) shall take effect on July1, 2023</li> </ul> </li> </ul>	<p>[Same as Senate]</p>