

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

H.544

Introduced by Representatives Labor of Morgan, Page of Newport City,
Anthony of Barre City, Berbeco of Winooski, Bos-Lun of
Westminster, Brumsted of Shelburne, Campbell of St.
Johnsbury, Christie of Hartford, Dodge of Essex, Dolan of
Essex Junction, Dolan of Waitsfield, Donahue of Northfield,
Farlice-Rubio of Barnet, Galfetti of Barre Town, Gregoire of
Fairfield, Hango of Berkshire, Holcombe of Norwich,
LaBounty of Lyndon, Lalley of Shelburne, McCann of
Montpelier, McGill of Bridport, Morrissey of Bennington,
Pouech of Hinesburg, Priestley of Bradford, Rice of Dorset,
Sims of Craftsbury, Templeman of Brownington, Torre of
Moretown, and Wilson of Lyndon

Referred to Committee on

Date:

Subject: Health; public health; chemicals; perfluoroalkyl and polyfluoroalkyl
substances

Statement of purpose of bill as introduced: This bill proposes to prohibit in the
short-term the manufacture, sale, and distribution in Vermont of cosmetic and
menstrual products containing certain chemicals and chemical classes, textiles
containing perfluoroalkyl and polyfluoroalkyl substances, and athletic turf

1 fields containing perfluoroalkyl and polyfluoroalkyl substances. In the longer
2 term, it further proposes to prohibit the manufacture, sale, and distribution in
3 Vermont of any product containing perfluoroalkyl and polyfluoroalkyl
4 substances if the use of perfluoroalkyl and polyfluoroalkyl substances is
5 deemed a currently unavoidable use.

6 An act relating to regulating products containing perfluoroalkyl and
7 polyfluoroalkyl substances

8 It is hereby enacted by the General Assembly of the State of Vermont:

9 * * * Chemicals in Cosmetic and Menstrual Products * * *

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

11 CHAPTER 33B. CHEMICALS IN COSMETIC AND MENSTRUAL
12 PRODUCTS

13 § 1676. DEFINITIONS

14 As used in this chapter:

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

18 (2) “Cosmetic product” means articles or a component of articles
19 intended to be rubbed; poured; sprinkled; or sprayed on, introduced into, or
20 otherwise applied to the human body or any part thereof for cleansing.

1 promoting attractiveness, or improving or altering appearance, including those
2 intended for use by professionals. “Cosmetic product” does not mean soap,
3 dietary supplements, or food and drugs approved by the U.S. Food and Drug
4 Administration.

5 (3) “Formaldehyde-releasing agent” means a chemical that releases
6 formaldehyde.

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

9 (5) “Manufacturer” means any person, firm, association, partnership,
10 corporation, organization, joint venture, importer, or domestic distributor of a
11 cosmetic or menstrual product. As used in this subdivision, “importer” means
12 the owner of the product.

13 (6) “Menstrual product” means a product used to collect menstruation
14 and vaginal discharge, including tampons, pads, sponges, menstruation
15 underwear, disks, applicators, and menstrual cups, whether disposable or
16 reusable.

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

20 (8) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a
21 class of fluorinated organic chemicals containing at least one fully fluorinated

1 carbon atom.

2 (9) “Professional” means a person granted a license pursuant to
3 26 V.S.A. chapter 6 to practice in the field of barbering, cosmetology,
4 manicuring, or esthetics.

5 § 1677. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL
6 PRODUCTS

7 (a) A manufacturer, supplier, or distributor shall not manufacture, sell,
8 offer for sale, distribute for sale, or distribute for use in this State any cosmetic
9 or menstrual product to which the following chemicals or chemical classes
10 have been intentionally added in any amount:

11 (1) ortho-phthalates;

12 (2) PFAS;

13 (3) formaldehyde (CAS 50-00-0) and formaldehyde releasing agents;

14 (4) methylene glycol (CAS 463-57-0);

15 (5) mercury and mercury compounds (CAS 7439-97-6);

16 (6) 1, 4-dioxane (CAS 123-91-1);

17 (7) isopropylparaben (CAS 4191-73-5);

18 (8) isobutylparaben (CAS 4247-02-3);

19 (9) lead and lead compounds (CAS 7439-92-1);

20 (10) asbestos;

21 (11) aluminum salts;

1 (12) triclosan (CAS 3380-34-5);

2 (13) m-phenylenediamine and its salts (CAS 108-42-5); and

3 (14) o-phenylenediamine and its salts (CAS 95-54-5).

4 (b) A cosmetic or menstrual product made through manufacturing
5 processes intended to comply with this chapter and containing a technically
6 unavoidable trace quantity of a chemical or chemical class listed in subsection
7 (a) of this section shall not be in violation of this chapter on account of the
8 trace quantity where it is the result of:

9 (1) natural or synthetic ingredients;

10 (2) the manufacturing process;

11 (3) storage; or

12 (4) migration from packaging.

13 (c) The manufacturer of a cosmetic or menstrual product containing 1,4
14 dioxane, lead, lead compounds, or any combination of these chemicals may
15 apply to the Department of Health for a one-year waiver from subsection (a) of
16 this section. The Department shall only approve a waiver application in which
17 the manufacturer submits evidence that the manufacturer has taken steps to
18 reduce the presence of 1,4 dioxane, lead, lead compounds, or any combination
19 of these chemicals in the cosmetic or menstrual product and is still unable to
20 comply with subsection (a) of this section. The Department shall not approve
21 more than two one-year waiver applications for a particular product.

1 § 1678. PENALTIES

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

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

9 Sec. 2. COMMUNITY ENGAGEMENT PLAN

10 On or before December 1, 2025, the Department of Health shall develop,
11 adopt, and submit a community engagement plan to the Senate Committee on
12 Health and Welfare and to the House Committee on Human Services related to
13 the enactment of 18 V.S.A. chapter 33B. The community engagement plan
14 shall:

15 (1) identify cosmetic products marketed to individuals who are Black,
16 Indigenous, or Persons of Color that contain potentially harmful ingredients;

17 (2) direct outreach to provide culturally appropriate education
18 concerning harmful ingredients used in cultural and other cosmetic products,
19 prioritizing engagement with vulnerable populations;

20 (3) make recommendations for priority chemicals or products to be
21 regulated; and

1 (4) include methods for outreach and communication with those who
2 face barriers to participation, such as language.

3 * * * PFAS in Textiles * * *

4 Sec. 3. 18 V.S.A. chapter 33C is redesignated and amended to read:

5 CHAPTER ~~33C~~ 33D. PFAS IN SKI WAX AND TEXTILES

6 § 1691. DEFINITIONS

7 As used in this chapter:

8 (1) “Apparel” means any of the following:

9 (A) Clothing items intended for regular wear or formal occasions,
10 including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits,
11 costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school
12 uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear,
13 formal wear, onesies, bibs, diapers, footwear, and everyday uniforms for
14 workwear. “Clothing items intended for regular wear or formal occasions”
15 does not include clothing items for exclusive use by the U.S. Armed Forces,
16 outdoor apparel for severe wet conditions, or personal protective equipment.

17 (B) Outdoor apparel.

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

19 ~~(2)~~(3) “Intentionally added” means the addition of a chemical in a
20 product that serves an intended function in the product component.

21 (4) “Outdoor apparel” means clothing items intended primarily for

1 outdoor activities, including hiking, camping, skiing, climbing, bicycling, and
2 fishing.

3 (5) “Outdoor apparel for severe wet conditions” means outdoor clothing
4 items that are extreme and extended use products designed for outdoor sports
5 experts for applications that provide protection against extended exposure to
6 extreme rain conditions or against extended immersion in water or wet
7 conditions, such as from snow, in order to protect the health and safety of the
8 user and that are not marketed for general consumer use. Examples of extreme
9 and extended use products include outerwear for offshore fishing, offshore
10 sailing, whitewater kayaking, and mountaineering.

11 ~~(3)~~(6) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” has
12 the same meaning as in section 1661 of this title.

13 (7) “Personal protective equipment” has the same meaning as in section
14 1661 of this title.

15 (8) “Regulated perfluoroalkyl and polyfluoroalkyl substances” or
16 “regulated PFAS” means:

17 (A) PFAS that a manufacturer has intentionally added to a product
18 and that have a functional or technical effect in the product, including PFAS
19 components of intentionally added chemicals and PFAS that are intentional
20 breakdown products of an added chemical that also have a functional or
21 technical effect in the product; or

1 (B) the presence of PFAS in a product or product component at or
2 above 100 parts per million, as measured in total organic fluorine.

3 ~~(4)(9)~~ “Ski wax” means a lubricant applied to the bottom of snow
4 runners, including skis and snowboards, to improve their grip and glide
5 properties.

6 (10) “Textile” means any item made in whole or part from a natural,
7 manmade, or synthetic fiber, yarn, or fabric and includes leather, cotton, silk,
8 jute, hemp, wool, viscose, nylon, or polyester. “Textile” does not include
9 single-use paper hygiene products, including toilet paper, paper towels, tissues,
10 or single-use absorbent hygiene products.

11 (11) “Textile articles” means textile goods of a type customarily and
12 ordinarily used in households and businesses and includes apparel, accessories,
13 handbags, backpacks, draperies, shower curtains, furnishings, upholstery,
14 bedding, towels, napkins, and tablecloths. “Textile articles” does not include:

15 (A) a vehicle, as defined in 1 U.S.C. § 4, or its component parts;

16 (B) a vessel, as defined in 1 U.S.C. § 3, or its component parts;

17 (C) an aircraft, as defined in 49 U.S.C. § 40102(a)(6), or its

18 component parts;

19 (D) filtration media and filter products used in industrial applications,

20 including chemical or pharmaceutical manufacturing and environmental

21 control technologies; and

1 (E) textile articles used for laboratory analysis and testing.

2 § 1692. SKI WAX

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 ski wax or
5 related tuning products to which PFAS have been intentionally added in any
6 amount.

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

8 § 1692a. TEXTILES

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 a textile or
11 textile article to which regulated PFAS have been intentionally added in any
12 amount.

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

14 § 1693. CERTIFICATE OF COMPLIANCE

15 The Attorney General may request a certificate of compliance from a
16 manufacturer of ski wax, textiles, or textile articles. Within 30 days after
17 receipt of the Attorney General's request for a certificate of compliance, the
18 manufacturer shall:

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

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

5 § 1694. RULEMAKING

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

9 § 1695. 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 Sec. 4. 18 V.S.A. § 1691(8) is amended to read:

18 (8) “Regulated perfluoroalkyl and polyfluoroalkyl substances” or
19 “regulated PFAS” means:

20 (A) PFAS that a manufacturer has intentionally added to a product
21 and that have a functional or technical effect in the product, including PFAS

1 components of intentionally added chemicals and PFAS that are intentional
2 breakdown products of an added chemical that also have a functional or
3 technical effect in the product; or

4 (B) the presence of PFAS in a product or product component at or
5 above ~~100~~ 50 parts per million, as measured in total organic fluorine.

6 Sec. 5. 18 V.S.A. § 1691 is amended to read:

7 § 1691. DEFINITIONS

8 As used in this chapter:

9 (1) “Apparel” means any of the following:

10 (A) Clothing items intended for regular wear or formal occasions,
11 including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits,
12 costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school
13 uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear,
14 formal wear, onesies, bibs, diapers, footwear, and everyday uniforms for
15 workwear. “Clothing items intended for regular wear or formal occasions”
16 does not include clothing items for exclusive use by the U.S. Armed Forces,
17 ~~outdoor apparel for severe wet conditions~~, or personal protective equipment.

18 (B) Outdoor apparel.

19 (C) Outdoor apparel for severe wet conditions.

20 * * *

1 * * * PFAS in Turf Fields * * *

2 Sec. 6. 18 V.S.A. chapter 33E is added to read:

3 CHAPTER 33E. PFAS IN ATHLETIC TURF FIELDS

4 § 1696. DEFINITIONS

5 As used in this chapter:

6 (1) “Athletic turf field” means an artificial or synthetic recreation area
7 used for competitive outdoor sports that is owned or operated by a public or
8 private postsecondary education institution that operates in Vermont.

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

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

12 § 1697. ATHLETIC TURF FIELDS

13 A manufacturer, supplier, or distributor shall not manufacture, sell, offer for
14 sale, distribute for sale, or distribute for use in this State an athletic turf field
15 containing PFAS. This section shall not apply to the sale of athletic turf fields
16 that have already been approved by voters prior to July 1, 2024.

17 § 1698. CERTIFICATE OF COMPLIANCE

18 The Attorney General may request a certificate of compliance from a
19 manufacturer of an athletic turf field. Within 30 days after receipt of the
20 Attorney General’s request for a certificate of compliance, the manufacturer
21 shall:

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

4 (2) notify persons who are selling a product of the manufacturer's in this
5 State that the sale is prohibited because the product does not comply with this
6 chapter and submit to the Attorney General a list of the names and addresses of
7 those persons notified.

8 § 1699. RULEMAKING

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

12 § 1699a. 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 Sec. 7. REPORT; MANAGEMENT OF PFAS ACROSS PRODUCT

2 CATEGORIES

3 On or before November 15, 2024, the Department of Environmental
4 Conservation, in consultation with the Department of Health, shall submit a
5 report to the House Committee on Human Services and the Senate Committee
6 on Health and Welfare containing recommendations on how to more
7 comprehensively manage perfluoroalkyl and polyfluoroalkyl substances and
8 other toxic chemicals by chemical class across a range of product categories.

9 Sec. 8. 18 V.S.A. chapter 35 is added to read:

10 CHAPTER 35. PRODUCTS CONTAINING PFAS

11 § 1711. DEFINITIONS

12 As used in this chapter:

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

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

16 (3) “Manufacturer” means any person, firm, association, partnership,
17 corporation, organization, joint venture, importer, or domestic distributor of a
18 product or product component. As used in this subdivision, “importer” means
19 the owner of the product or product component.

20 (4) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a
21 class of fluorinated organic chemicals containing at least one fully fluorinated

1 carbon atom.

2 (5) “Product” means an item manufactured, assembled, packaged, or
3 otherwise prepared for sale to consumers, including its product components.

4 (6) “Product component” means an identifiable component of a product
5 regardless of whether the manufacturer of the product is the manufacturer of
6 the component.

7 § 1712. PROHIBITION ON THE SALE AND DISTRIBUTION OF
8 PRODUCTS CONTAINING PFAS

9 (a) A person shall not distribute, sell, offer for sale, or distribute in this
10 State any product to which one or more PFAS has been intentionally added
11 unless the Department has determined that the use of PFAS is a currently
12 unavoidable use.

13 (b) The Department shall maintain a list of products on its website that are
14 exempt from subsection (a) of this section due to its determination that the use
15 of one or more intentionally added PFAS constitutes a currently unavoidable
16 use.

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

18 § 1713. CERTIFICATE OF COMPLIANCE

19 The Attorney General may request a certificate of compliance from a
20 manufacturer of a product sold in Vermont. Within 30 days after receipt of the
21 Attorney General’s request for a certificate of compliance, the manufacturer

1 shall:

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

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

9 § 1714. RULEMAKING

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

13 § 1715. PENALTIES

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

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

1 Sec. 9. REDESIGNATION

2 18 V.S.A. chapter 33B (PFAS in rugs, carpets, and aftermarket stain and
3 water resistant treatments) shall be redesignated as 18 V.S.A. chapter 33C.

4 Sec. 10. REPEALS

5 18 V.S.A. chapter 33C (PFAS in rugs, carpets, and aftermarket stain and
6 water resistant treatments), 18 V.S.A. chapter 33D (PFAS in ski wax and
7 textiles), and 18 V.S.A. chapter 33E (PFAS in athletic turf fields) are repealed.

8 * * * Effective Dates * * *

9 Sec. 11. EFFECTIVE DATES

10 This act shall take effect on July 1, 2024, except that:

11 (1) Sec. 1 (chemicals in cosmetic and menstrual products), Sec. 3 (PFAS
12 in ski wax and textiles), and Sec. 9 (redesignation) shall take effect on January
13 1, 2025.

14 (2) Sec. 4 (18 V.S.A. § 1691(8)) shall take effect on July 1, 2028.

15 (3) Sec. 5 (definitions) shall take effect on July 1, 2029.

16 (4) Sec. 8 (prohibition on the sale of products containing PFAS) and
17 Sec. 10 (repeals) shall take effect on July 1, 2032.