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

An act relating to regulating products containing perfluoroalkyl and
polyfluoroalkyl substances

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

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

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

CHAPTER 33B. CHEMICALS IN COSMETIC AND MENSTRUAL
PRODUCTS

§ 1676. DEFINITIONS

As used in this chapter:

(1) “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.

(2) “Cosmetic product” means articles or a component of articles
intended to be rubbed; poured; sprinkled; or sprayed on, introduced into, or
otherwise applied to the human body or any part thereof for cleansing.
promoting attractiveness, or improving or altering appearance, including those
intended for use by professionals. “Cosmetic product” does not mean soap,
dietary supplements, or food and drugs approved by the U.S. Food and Drug
Administration.

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

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

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

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

(7) “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.

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

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

§ 1677. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL PRODUCTS

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

(1) ortho-phthalates;

(2) PFAS;

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

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

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

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

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

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

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

(10) asbestos;

(11) aluminum salts;
(12) triclosan (CAS 3380-34-5);

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

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

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

(1) natural or synthetic ingredients;

(2) the manufacturing process;

(3) storage; or

(4) migration from packaging.

(c) The manufacturer of a cosmetic or menstrual product containing 1,4 dioxane, lead, lead compounds, or any combination of these chemicals may apply to the Department of Health for a one-year waiver from subsection (a) of this section. The Department shall only approve a waiver application in which the manufacturer submits evidence that the manufacturer has taken steps to reduce the presence of 1,4 dioxane, lead, lead compounds, or any combination of these chemicals in the cosmetic or menstrual product and is still unable to comply with subsection (a) of this section. The Department shall not approve more than two one-year waiver applications for a particular product.
§ 1678. PENALTIES

(a) A violation of this chapter shall be deemed 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 9 V.S.A. chapter 63, subchapter 1.

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

Sec. 2. COMMUNITY ENGAGEMENT PLAN

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

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

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

(3) make recommendations for priority chemicals or products to be regulated; and
include methods for outreach and communication with those who face barriers to participation, such as language.

* * * PFAS in Textiles * * *

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

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

§ 1691. DEFINITIONS

As used in this chapter:

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

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

(B) Outdoor apparel.

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

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

(4) “Outdoor apparel” means clothing items intended primarily for
outdoor activities, including hiking, camping, skiing, climbing, bicycling, and fishing.

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

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

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

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

(A) PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product, including PFAS components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product; or
(B) the presence of PFAS in a product or product component at or
above 100 parts per million, as measured in total organic fluorine.

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

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

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

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

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

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

(D) filtration media and filter products used in industrial applications,
including chemical or pharmaceutical manufacturing and environmental
control technologies; and
(E) textile articles used for laboratory analysis and testing.

§ 1692. SKI WAX

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

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

§ 1692a. TEXTILES

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a textile or textile article to which regulated PFAS have been intentionally added in any amount.

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

§ 1693. CERTIFICATE OF COMPLIANCE

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

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

§ 1694. RULEMAKING

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

§ 1695. PENALTIES

(a) A violation of this chapter shall be deemed 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 9 V.S.A. chapter 63, subchapter 1.

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

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

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

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

(B) the presence of PFAS in a product or product component at or
above 400 parts per million, as measured in total organic fluorine.

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

§ 1691. DEFINITIONS

As used in this chapter:

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

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

(B) Outdoor apparel.

(C) Outdoor apparel for severe wet conditions.

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

CHAPTER 33E. PFAS IN ATHLETIC TURF FIELDS

§ 1696. DEFINITIONS

As used in this chapter:

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

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

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

§ 1697. ATHLETIC TURF FIELDS

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

§ 1698. CERTIFICATE OF COMPLIANCE

The Attorney General may request a certificate of compliance from a manufacturer of an athletic turf field. Within 30 days after receipt of the Attorney General’s request for a certificate of compliance, the manufacturer shall:
(1) provide the Attorney General with a certificate attesting that the manufacturer’s product or products comply with the requirements of this chapter; or

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

§ 1699. RULEMAKING

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

§ 1699a. PENALTIES

(a) A violation of this chapter shall be deemed 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 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.
Sec. 7. REPORT; MANAGEMENT OF PFAS ACROSS PRODUCT CATEGORIES

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

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

CHAPTER 35. PRODUCTS CONTAINING PFAS

§ 1711. DEFINITIONS

As used in this chapter:

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

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

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

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

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

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

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

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

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

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

§ 1713. CERTIFICATE OF COMPLIANCE

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

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

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

§ 1714. RULEMAKING

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

§ 1715. PENALTIES

(a) A violation of this chapter shall be deemed 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 9 V.S.A. chapter 63, subchapter 1.

(b) Nothing in this section shall be construed to preclude or supplant any other statutory or common law remedies.
Sec. 9. REDESIGNATION

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

Sec. 10. REPEALS

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

*** Effective Dates ***

Sec. 11. EFFECTIVE DATES

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

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

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

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

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