

1 S.25

2 Introduced by Senators Lyons, Clarkson, Harrison, Ram Hinsdale, Vyhovsky,
3 Watson, White and Wrenner

4 Referred to Committee on Health and Welfare

5 Date: January 20, 2023

6 Subject: Health; public health; chemicals; cosmetic products; menstrual
7 products; textiles; athletic turf fields

8 Statement of purpose of bill as introduced: This bill proposes to (1) prohibit
9 the manufacture, sale, and distribution in Vermont of cosmetic and menstrual
10 products containing certain chemicals and chemical classes; (2) prohibit the
11 manufacture, sale, and distribution in Vermont of textiles containing
12 perfluoroalkyl and polyfluoroalkyl substances; and (3) prohibit the installation
13 of any new athletic turf field containing perfluoroalkyl and polyfluoroalkyl
14 substances.

15 ~~An act relating to regulating cosmetic and menstrual products containing~~
16 ~~certain chemicals and chemical classes and textiles and athletic turf fields~~
17 ~~containing perfluoroalkyl and polyfluoroalkyl substances.~~

*An act relating to regulating consumer products containing perfluoroalkyl
and polyfluoroalkyl substances or other chemicals*

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

19 ~~*** Chemicals in Cosmetic and Menstrual Products ***~~

~~Sec. 1. 18 V.S.A. chapter 36 is added to read:~~

CHAPTER 36. CHEMICALS IN COSMETIC AND MENSTRUAL
PRODUCTS

§ 1721. 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

1 ~~cosmetic or menstrual product. As used in this subdivision, "importer" means~~
2 the owner of the product.

3 (6) "Menstrual product" means a product used to collect menstruation
4 and vaginal discharge, including tampons, pads, sponges, menstruation
5 underwear, discs, applicators, and menstrual cups, whether disposable or
6 reusable.

7 (7) "Ortho-phthalates" means any member of the class of organic
8 chemicals that are esters of phthalic acid containing two carbon chains located
9 in the ortho position.

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

13 (9) "Professional" means a person granted a license pursuant to
14 26 V.S.A. chapter 6 to practice in the field of barbering, cosmetology,
15 manicuring, or esthetics.

16 § 1722. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL

17 PRODUCTS

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 any cosmetic
20 or menstrual product to which the following chemicals or chemical classes
21 have been intentionally added in any amount.

- 1 ~~(1) Ortho-phthalates;~~
- 2 (2) PFAS;
- 3 (3) Bisphenols;
- 4 (4) Formaldehyde (CAS 50-00-0) and formaldehyde releasing agents;
- 5 (5) Arsenic and arsenic compounds (CAS 7440-38-2);
- 6 (6) Methylene glycol (CAS 463-57-0);
- 7 (7) Mercury and mercury compounds (CAS 7439-97-6);
- 8 (8) Styrene (CAS 100-42-5);
- 9 (9) 1, 4-dioxane (CAS 123-91-1);
- 10 (10) Cadmium and cadmium compounds (CAS 7440-43-9);
- 11 (11) Octamethylcyclotetrasiloxane (CAS 556-67-2);
- 12 (12) Toluene (CAS 108-88-3);
- 13 (13) Isopropylparaben (CAS 4191-73-5);
- 14 (14) Phenylparaben (CAS 17696-62-7);
- 15 (15) Propylparaben (CAS 94-13-3);
- 16 (16) Butylparaben (CAS 94-26-8);
- 17 (17) Pentylparaben (CAS 99-76-3);
- 18 (18) Lead and lead compounds (CAS 7439-92-1);
- 19 (19) Asbestos;
- 20 (20) Ethyl acrylate (CAS 140-88-5);
- 21 ~~(21) Aluminum salts;~~

1 ~~(22) Triclosan (CAS 9380-34-5),~~

2 ~~(23) Methylisothiazolinone (CAS 2682-20-4);~~

3 ~~(24) Methylchloroisothiazolinone (CAS 26172-55-4);~~

4 ~~(25) m-phenylenediamine and its salts (CAS 108-42-5);~~

5 ~~(26) o-phenylenediamine and its salts (CAS 95-54-5); and~~

6 ~~(27) p-phenylenediamine and its salts (CAS 106-50-3).~~

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

12 ~~(1) natural or synthetic ingredients;~~

13 ~~(2) the manufacturing process;~~

14 ~~(3) storage; or~~

15 ~~(4) migration from packaging.~~

16 ~~(c) The manufacturer of a cosmetic or menstrual product containing 1,4~~
17 ~~dioxane, lead, lead compounds, or any combination of these chemicals may~~
18 ~~apply to the Department of Health for a one-year waiver from subsection (a) of~~
19 ~~this section. The Department shall only approve a waiver application in which~~
20 ~~the manufacturer submits evidence that the manufacturer has taken steps to~~
21 ~~reduce the presence of 1,4 dioxane, lead, lead compounds, or any combination~~

1 ~~if these chemicals in the cosmetic or menstrual product and is still unable to~~
2 comply with subsection (a) of this section. The Department shall not approve
3 more than two one-year waiver applications for a particular product.

4 § 1723. PENALTIES

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

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

12 Sec. 2. COMMUNITY ENGAGEMENT PLAN

13 On or before December 1, 2024, the Department of Health shall develop,
14 adopt, and submit a community engagement plan to the Senate Committee on
15 Health and Welfare and to the House Committee on Human Services related to
16 the enactment of 18 V.S.A. chapter 36. The community engagement plan
17 shall:

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

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

4 (3) make recommendations for priority chemicals or products to be
5 regulated; and

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

8 * * * PFAS in Textiles * * *

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

10 CHAPTER 33C. PFAS IN SKI WAX AND TEXTILES

11 § 1691. DEFINITIONS

12 As used in this chapter:

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

14 (A) Clothing items intended for regular wear or formal occasions,
15 including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits,
16 costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school
17 uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear,
18 formal wear, onesies, bibs, diapers, footwear, and everyday uniforms for
19 workwear. Clothing items intended for regular wear or formal occasions does
20 not include personal protective equipment or clothing items for exclusive use
21 by the U.S. Armed Forces.

1 ~~(B) Outdoor apparel~~

2 (C) Outdoor apparel for severe wet conditions.

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

4 ~~(2)(3)~~ “Intentionally added” means the addition of a chemical in a
5 product that serves an intended function in the product component.

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

9 ~~(3)(5)~~ “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” has
10 the same meaning as in section 1661 of this title.

11 (6) “Personal protective equipment” has the same meaning as in section
12 1661 of this title.

13 ~~(4)(7)~~ “Ski wax” means a lubricant applied to the bottom of snow
14 runners, including skis and snowboards, to improve their grip and glide
15 properties.

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

1 ~~(9) "Textile articles" means textile goods of a type customarily and~~
2 ~~ordinarily used in households and businesses, and includes apparel,~~
3 ~~accessories, handbags, backpacks, draperies, shower curtains, furnishings,~~
4 ~~upholstery, bedding, towels, napkins, and table cloths. "Textile articles" does~~
5 ~~not include:~~

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

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

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

9 ~~component parts;~~

10 ~~(D) filtration media and filter products used in industrial~~
11 ~~applications, including chemical or pharmaceutical manufacturing and~~
12 ~~environmental control technologies; and~~

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

14 § 1692. SKI WAX

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

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

1 ~~§ 1692a. TEXTILES~~

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

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

6 § 1693. CERTIFICATE OF COMPLIANCE

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

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

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

18 § 1694. RULEMAKING

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

1 ~~§ 1695. 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
6 rights 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 * * * PFAS in Turf Fields * * *

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

11 CHAPTER 33D. PFAS IN ATHLETIC TURF FIELDS

12 § 1696. DEFINITIONS

13 As used in this chapter:

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

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 § 1697. ATHLETIC TURF FIELDS

2 A manufacturer, supplier, or distributor shall not manufacture, sell, offer for
3 sale, distribute for sale, or distribute for use in this State an athletic turf field to
4 which PFAS have been intentionally added in any amount.

5 § 1698. CERTIFICATE OF COMPLIANCE

6 The Attorney General may request a certificate of compliance from a
7 manufacturer of an athletic turf field. Within 30 days after receipt of the
8 Attorney General's request for a certificate of compliance, the manufacturer
9 shall:

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

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

17 § 1699. RULEMAKING

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

§ 1600. DENALTIES

(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.

** * * Effective Dates * * **

Sec. 5. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that Sec. 1 (chemicals in cosmetic and menstrual products) and Sec. 3 (PFAS in ski wax and textiles)

shall take effect on January 1, 2026.

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

Sec. 1. 18 V.S.A. chapter 36 is added to read:

CHAPTER 36. CHEMICALS IN COSMETIC AND MENSTRUAL PRODUCTS

§ 1721. 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.

§ 1722. 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.

§ 1723. 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, 2024, 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 36. 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~~

~~(4) 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 amended to read:~~

~~CHAPTER 33C. 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, and 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 apparel~~

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.

(3)(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 table cloths. “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. 3a. 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 ~~100~~ 50 parts per million, as measured in total organic fluorine.~~

~~Sec. 3b. 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,~~ and personal protective equipment.~~

~~(B) Outdoor apparel.~~

~~(C) Outdoor apparel for severe wet conditions.~~

~~***~~

~~*** PFAS in Turf Fields ***~~

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

~~CHAPTER 33D. 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, 2023.~~

~~§ 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. 5. REPORT, MANAGEMENT OF PFAS ACROSS PRODUCT~~

CATEGORIES

On or before November 15, 2023, 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.

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that:

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

(2) Sec. 3a (18 V.S.A. § 1691(8)) shall take effect on July 1, 2027.

(3) Sec. 3b (definitions) shall take effect on July 1, 2026.

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

Sec. 1. 9 V.S.A. chapter 63, subchapter 12 is added to read:

Subchapter 12. Chemicals in Cosmetic and Menstrual Products

§ 2494a. DEFINITIONS

As used in this subchapter:

(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 engaged in the business of making or assembling a consumer product directly or indirectly available to

consumers. “Manufacturer” excludes a distributor or retailer, except when a consumer product is made or assembled outside the United States, in which case a “manufacturer” includes the importer or first domestic distributor of the consumer 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.

§ 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL PRODUCTS

(a) A manufacturer 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);
- (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) triclosan (CAS 3380-34-5);

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

(13) o-phenylenediamine and its salts (CAS 95-54-5); and

(14) quaternium-15 (CAS 51229-78-8).

(b) A cosmetic or menstrual product made through manufacturing processes intended to comply with this subchapter 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 subchapter on account of the trace quantity where it is caused by impurities of:

(1) natural or synthetic ingredients;

(2) the manufacturing process;

(3) storage; or

(4) migration from packaging.

(c) A manufacturer shall not knowingly manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State any cosmetic or menstrual product that contains 1,4, dioxane at or exceeding 10 parts per million.

(d)(1) Pursuant to 3 V.S.A. chapter 25, the Department of Health may adopt rules prohibiting a manufacturer from selling, offering for sale, distributing for sale, or distributing for use a cosmetic or menstrual product to which formaldehyde releasing agents have been intentionally added and are present in any amount.

(2) The Department may only prohibit a manufacturer from selling, offering for sale, distributing for sale, or distributing for use a cosmetic or menstrual product in accordance with this subsection if the Department or at least one other state has determined that a safer alternative is readily available in sufficient quantity and at comparable cost and that the safer alternative performs as well as or better than formaldehyde releasing agents in a specific application of formaldehyde releasing agents to a cosmetic or menstrual product.

(3) Any rule adopted by the Department pursuant to this subsection may restrict formaldehyde releasing agents as individual chemicals or as a class of chemicals.

§ 2494c. VIOLATIONS

(a) A violation of this subchapter is deemed to be a violation of section 2453 of this title.

(b) 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 subchapter 1 of this chapter.

Sec. 2. 9 V.S.A. § 2494b is amended to read:

§ 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL PRODUCTS

(a) A manufacturer 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:

* * *

(13) o-phenylenediamine and its salts (CAS 95-54-5); and

(14) quaternium-15 (CAS 51229-78-8);

(15) styrene (CAS 100-42-5);

(16) octamethylcyclotetrasiloxane (CAS 556-67-2); and

(17) toluene (CAS 108-88-3).

* * *

* * * PFAS in Consumer Products * * *

Sec. 3. 9 V.S.A. chapter 63, subchapter 12a is added to read:

Subchapter 12a. PFAS in Consumer Products

§ 2494e. DEFINITIONS

As used in this subchapter:

(1) “Adult mattress” means a mattress other than a crib or toddler mattress.

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

(3) “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, reusable diapers, footwear, and everyday uniforms

for workwear. Clothing items intended for regular wear or formal occasions do not include clothing items for exclusive use by the U.S. Armed Forces, outdoor apparel for severe wet conditions, and personal protective equipment.

(B) Outdoor apparel.

(4) “Artificial turf” means a surface of synthetic fibers that is used in place of natural grass in recreational, residential, or commercial applications.

(5) “Cookware” means durable houseware items used to prepare, dispense, or store food, foodstuffs, or beverages and that are intended for direct food contact, including pots, pans, skillets, grills, baking sheets, baking molds, trays, bowls, and cooking utensils.

(6) “Incontinency protection product” means a disposable, absorbent hygiene product designed to absorb bodily waste for use by individuals 12 years of age and older.

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

(8) “Juvenile product” means a product designed or marketed for use by infants and children under 12 years of age:

(A) including a baby or toddler foam pillow; bassinet; bedside sleeper; booster seat; changing pad; infant bouncer; infant carrier; infant seat; infant sleep positioner; infant swing; infant travel bed; infant walker; nap cot; nursing pad; nursing pillow; play mat; playpen; play yard; polyurethane foam mat, pad, or pillow; portable foam nap mat; portable infant sleeper; portable hook-in chair; soft-sided portable crib; stroller; toddler mattress; and disposable, single-use diaper; and

(B) excluding a children’s electronic product, such as a personal computer, audio and video equipment, calculator, wireless phone, game console, handheld device incorporating a video screen, or any associated peripheral such as a mouse, keyboard, power supply unit, or power cord; a medical device; or an adult mattress.

(9) “Manufacturer” means any person engaged in the business of making or assembling a consumer product directly or indirectly available to consumers. “Manufacturer” excludes a distributor or retailer, except when a consumer product is made or assembled outside the United States, in which case a “manufacturer” includes the importer or first domestic distributor of the consumer product.

(10) “Medical device” has the same meaning given to “device” in 21 U.S.C. § 321.

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

(12) “Outdoor apparel for severe wet conditions” means outdoor apparel 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.

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

(14) “Personal protective equipment” has the same meaning as in section 2494p of this title.

(15) “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.

(16) “Rug or carpet” means a fabric marketed or intended for use as a floor covering.

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

(18) “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.

(19) “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 table cloths. "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;

(E) textile articles used for laboratory analysis and testing; and

(F) rugs or carpets.

§ 2494f. AFTERMARKET STAIN AND WATER-RESISTANT TREATMENTS

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

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

§ 2494g. ARTIFICIAL TURF

A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State artificial turf to which:

(1) PFAS have been intentionally added in any amount; or

(2) PFAS have entered the product from the manufacturing or processing of that product, the addition of which is known or reasonably ascertainable by the manufacturer.

§ 2494h. COOKWARE

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

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

§ 2494i. INCONTINENCY PROTECTION PRODUCT

A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State an incontinency protection product to which PFAS have been intentionally added in any amount.

§ 2494j. JUVENILE PRODUCTS

(a) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State juvenile 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.

§ 2494k. RUGS AND CARPETS

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

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

§ 2494l. SKI WAX

(a) A manufacturer 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.

§ 2494m. TEXTILES

(a) A manufacturer 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.

§ 2494n. CERTIFICATE OF COMPLIANCE

(a) The Attorney General may request a certificate of compliance from a manufacturer of a consumer product regulated under this subchapter. Within 60 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 subchapter; 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 subchapter and submit to the Attorney General a list of the names and addresses of those persons notified.

(b) A manufacturer required to submit a certificate of compliance pursuant to this section may rely upon a certificate of compliance provided to the manufacturer by a supplier for the purpose of determining the manufacturer's

reporting obligations. A certificate of compliance provided by a supplier in accordance with this subsection shall be used solely for the purpose of determining a manufacturer's compliance with this section.

§ 2494o. VIOLATIONS

(a) A violation of this subchapter is deemed to be a violation of section 2453 of this title.

(b) 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 subchapter 1 of this chapter.

** * * Amendments to PFAS in Textiles * * **

Sec. 4. 9 V.S.A. § 2494e(3) is amended to read:

(3) "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, reusable diapers, footwear; and everyday uniforms for workwear. Clothing items intended for regular wear or formal occasions do not include clothing items for exclusive use by the U.S. Armed Forces; ~~outdoor apparel for severe wet conditions;~~ and personal protective equipment.

(B) Outdoor apparel.

(C) Outdoor apparel for severe wet conditions.

Sec. 5. 9 V.S.A. § 2494e(15) is amended to read:

(15) "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~~ 50 parts per million, as measured in total organic fluorine.

**** PFAS in Firefighting Agents and Equipment ****

Sec. 6. 9 V.S.A. chapter 63, subchapter 12b is added to read:

Subchapter 12b. PFAS in Firefighting Agents and Equipment

§ 2494p. DEFINITIONS

As used in this subchapter:

(1) “Class B firefighting foam” means chemical foams designed for flammable liquid fires.

(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 engaged in the business of making or assembling a consumer product directly or indirectly available to consumers. “Manufacturer” excludes a distributor or retailer, except when a consumer product is made or assembled outside the United States, in which case a “manufacturer” includes the importer or first domestic distributor of the consumer product.

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

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

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

(7) “Terminal” means an establishment primarily engaged in the wholesale distribution of crude petroleum and petroleum products, including liquefied petroleum gas from bulk liquid storage facilities.

§ 2494q. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

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

§ 2494r. RESTRICTION ON MANUFACTURE, SALE, AND DISTRIBUTION; EXCEPTIONS

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

(b) A person operating a terminal who seeks to purchase class B firefighting foam containing intentionally added PFAS for the purpose of fighting emergency class B fires may apply to the Department of Environmental Conservation for a temporary exemption from the restrictions on the manufacture, sale, offer for sale, or distribution of class B firefighting foam for use at a terminal. An exemption shall not exceed one year. The Department of Environmental Conservation, in consultation with the Department of Health, may grant an exemption under this subsection if the applicant provides:

(1) clear and convincing evidence that there is not a commercially available alternative that:

(A) does not contain intentionally added PFAS; and

(B) is capable of suppressing a large atmospheric tank fire or emergency class B fire at the terminal;

(2) information on the amount of class B firefighting foam containing intentionally added PFAS that is annually stored, used, or released at the terminal;

(3) a report on the progress being made by the applicant to transition at the terminal to class B firefighting foam that does not contain intentionally added PFAS; and

(4) an explanation of how:

(A) all releases of class B firefighting foam containing intentionally added PFAS shall be fully contained at the terminal; and

(B) existing containment measures prevent firewater, wastewater, runoff, and other wastes from being released into the environment, including into soil, groundwater, waterways, and stormwater.

(c) Nothing in this section shall prohibit a terminal from providing class B firefighting foam in the form of aid to another terminal in the event of a class B fire.

§ 2494s. SALE OF PERSONAL PROTECTIVE EQUIPMENT
CONTAINING PFAS

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

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

§ 2494t. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

(a) A manufacturer of class B firefighting foam containing intentionally added PFAS shall provide written notice to persons that sell the manufacturer's products in this State about the restrictions imposed by this subchapter not less than one year prior to the effective date of the restrictions.

(b) Unless a class B firefighting foam containing intentionally added PFAS is intended for use at a terminal and the person operating a terminal holds a temporary exemption pursuant to subsection 2494r(b) of this title, a manufacturer that produces, sells, or distributes a class B firefighting foam containing intentionally added PFAS shall:

(1) recall the product and reimburse the retailer or any other purchaser for the product; and

(2) issue either a press release or notice on the manufacturer's website describing the product recall and reimbursement requirement established in this subsection.

§ 2494u. CERTIFICATE OF COMPLIANCE

(a) The Attorney General may request a certificate of compliance from a manufacturer of class B firefighting foam or firefighting personal protective equipment. Within 60 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 subchapter; 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 subchapter and submit to the Attorney General a list of the names and addresses of those persons notified.

(b) A manufacturer required to submit a certificate of compliance pursuant to this section may rely upon a certificate of compliance provided to the manufacturer by a supplier for the purpose of determining the manufacturer's reporting obligations. A certificate of compliance provided by a supplier in accordance with this subsection shall be used solely for the purpose of determining a manufacturer's compliance with this section.

§ 2494v. VIOLATIONS

(a) A violation of this subchapter is deemed to be a violation of section 2453 of this title.

(b) 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 subchapter 1 of this chapter.

** * * Chemicals of Concern in Food Packaging * * **

Sec. 7. 9 V.S.A. chapter 63, subchapter 12c is added to read:

Subchapter 12c. Chemicals of Concern in Food Packaging

§ 2494w. DEFINITIONS

As used in this subchapter:

(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) "Department" means the Department of Health.

(3) "Food package" or "food packaging" means a package or packaging component that is intended for direct food contact.

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

(5) "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.

(6) "Package" means a container providing a means of marketing, protecting, or handling a product and shall include a unit package, an intermediate package, and a shipping container. "Package" also means

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

(7) "Packaging component" means an individual assembled part of a package, such as any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels, and disposable gloves used in commercial or institutional food service.

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

§ 2494x. FOOD PACKAGING

(a) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a food package to which PFAS have been intentionally added and are present in any amount.

(b)(1) Pursuant to 3 V.S.A. chapter 25, the Department may 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 bisphenols have been intentionally added and are present in any amount. The Department may exempt specific chemicals within the bisphenol class when clear and convincing evidence suggests they are not endocrine-active or otherwise toxic.

(2) 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 or at least one other state 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.

(3) 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 adopts the rules.

(c) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a food package that includes inks, dyes, pigments, adhesives, stabilizers, coatings, plasticizers, or any other additives to which ortho-phthalates have been intentionally added and are present in any amount.

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

§ 2494y. CERTIFICATE OF COMPLIANCE

(a) The Attorney General may request a certificate of compliance from a manufacturer of food packaging. Within 60 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 subchapter; 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 subchapter and submit to the Attorney General a list of the names and addresses of those persons notified.

(b) A manufacturer required to submit a certificate of compliance pursuant to this section may rely upon a certificate of compliance provided to the manufacturer by a supplier for the purpose of determining the manufacturer's reporting obligations. A certificate of compliance provided by a supplier in accordance with this subsection shall be used solely for the purpose of determining a manufacturer's compliance with this section.

§ 2494z. VIOLATIONS

(a) A violation of this subchapter is deemed to be a violation of section 2453 of this title.

(b) 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 subchapter 1 of this chapter.

** * * Engagement and Implementation Plans * * **

Sec. 8. COMMUNITY ENGAGEMENT PLAN

(a) On or before July 1, 2025, the Department of Health shall develop 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 9 V.S.A. chapter 63, subchapter 12. The community engagement plan shall:

(1) provide education to the general public on chemicals of concern in cosmetic and menstrual products and specifically address the unique impact these products have on marginalized communities by providing the use of language access services, participant compensation, and other resources that support equitable access to participation; and

(2) outline the methodology and costs to conduct outreach for the purposes of:

(A) identifying cosmetic products of concern, including those marketed to or utilized by marginalized communities in Vermont;

(B) conducting research on the prevalence of potentially harmful ingredients within cosmetic products, including those marketed to or utilized by marginalized communities in Vermont;

(C) proposing a process for regulating chemicals or products containing potentially harmful ingredients, including those marketed to or utilized by marginalized communities in Vermont; and

(D) creating culturally appropriate public health awareness campaigns concerning harmful ingredients used in cosmetic products.

(b) As used in the section, “marginalized communities” means individuals with shared characteristics who experience or have historically experienced discrimination based on race, ethnicity, color, national origin, English language proficiency, disability, gender identity, gender expression, or sexual orientation.

**Sec. 9. IMPLEMENTATION PLAN; CONSUMER PRODUCTS
CONTAINING PFAS**

(a) The Agency of Natural Resources, in consultation with the Agency of Agriculture, Food and Markets; the Department of Health; and the Office of the Attorney General, shall propose a program requiring the State to identify and restrict the sale and distribution of consumer products containing perfluoroalkyl and polyfluoroalkyl substances (PFAS) that could impact public health and the environment. The proposed program shall:

(1) identify categories of consumer products that could have an impact on public health and environmental contamination;

(2) propose a process by which manufacturers determine whether a consumer product contains PFAS and how that information is communicated to the State;

(3) address how information about the presence or lack of PFAS in a consumer product is conveyed to the public;

(4) describe which agency or department is responsible for administration of the proposed program, including what additional staff, information technology changes, and other resources, if any, are necessary to implement the program;

(5) determine whether and how other states have structured and implemented similar programs and identify the best practices used in these efforts;

(6) propose definitions of “intentionally added,” “consumer product,” and “perfluoroalkyl and polyfluoroalkyl substances”;

(7) propose a related public service announcement program and website content to inform the public and health care providers about the potential public health impacts of exposure to PFAS and actions that can be taken to reduce risk;

(8) provide recommendations for the regulation of PFAS within consumer products that use recycled materials, including food packaging, cosmetic product packaging, and textiles; and

(9) determine whether “personal protective equipment” regulated by the U.S. Occupational Safety and Health Administration under the Occupational Safety and Health Act, the U.S. Food and Drug Administration, or the U.S. Centers for Disease Control and Prevention, or a product that is regulated as a drug, medical device, or dietary supplement by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act or the Dietary Supplement Health and Education Act, is appropriately regulated under 9 V.S.A. chapter 63, subchapters 12–12c.

(b) The Agency of Natural Resources shall obtain input on its recommendation from interested parties, including those that represent environmental, agricultural, and industry interests.

(c) On or before November 1, 2024, the Agency of Natural Resources shall submit an implementation plan developed pursuant to this section and corresponding draft legislation to the House Committees on Environment and Energy and on Human Services and the Senate Committees on Health and Welfare and on Natural Resources and Energy.

(d) For the purposes of this section, “consumer products” includes restricted and nonrestricted use pesticides.

** * * Repeal * * **

Sec. 10. REPEAL; PFAS IN VARIOUS CONSUMER PRODUCTS

18 V.S.A. chapter 33 (PFAS in firefighting agents and equipment), 18 V.S.A. chapter 33A (chemicals of concern in food packaging), 18 V.S.A. chapter 33B (PFAS in rugs, carpets, and aftermarket stain and water resistant treatments), and 18 V.S.A. chapter 33C (PFAS in ski wax) are repealed on January 1, 2026.

**** Compliance Notification ****

Sec. 11. COMPLIANCE NOTIFICATION

If, upon a showing by a manufacturer, the Office of the Attorney General determines that it is not feasible to produce a particular consumer product as required by this act on the effective date listed in Sec. 13 (effective dates), the Attorney General may postpone the compliance date for that product for up to one year. If the Attorney General postpones a compliance date pursuant to this section, the Office of the Attorney General shall post notification of the postponement on its website.

**** Lead in Cosmetic Products ****

Sec. 12. LEAD IN COSMETIC PRODUCTS

On or before March 1, 2025, the Department of Health shall observe and evaluate Washington's experience of implementing a one part per million limit on the presence of lead in cosmetic products and present the Department's findings to the House Committee on Human Services and to the Senate Committee on Health and Welfare.

**** Effective Dates ****

Sec. 13. 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 consumer products), Sec. 6 (PFAS in firefighting agents and equipment), and Sec. 7 (chemicals of concern in food packaging) shall take effect on January 1, 2026;

(2) Sec. 2 (9 V.S.A. § 2494b) and Sec. 5 (9 V.S.A. § 2494e(15)) shall take effect on July 1, 2027; and

(3) Sec. 4 (9 V.S.A. § 2494e(3)) shall take effect on July 1, 2028.