

1 S.25

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

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

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

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

7 Subchapter 12. Chemicals in Cosmetic and Menstrual Products

8 § 2494a. DEFINITIONS

9 As used in this subchapter:

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

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

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

22 (4) “Intentionally added” means the addition of a chemical in a product

1 that serves an intended function in the product component.

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

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

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

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

18 (9) “Professional” means a person granted a license pursuant to
19 26 V.S.A. chapter 6 to practice in the field of barbering, cosmetology,
20 manicuring, or esthetics.

1 § 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL
2 PRODUCTS

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

7 (1) ortho-phthalates;

8 (2) PFAS;

9 (3) formaldehyde (CAS 50-00-0);

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

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

12 (6) 1, 4-dioxane (CAS 123-91-1);

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

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

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

16 (10) asbestos;

17 (11) triclosan (CAS 3380-34-5);

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

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

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

21 (b) A cosmetic or menstrual product made through manufacturing

1 processes intended to comply with this subchapter and containing a technically
2 unavoidable trace quantity of a chemical or chemical class listed in subsection
3 (a) of this section shall not be in violation of this subchapter on account of the
4 trace quantity where it is caused by impurities of:

5 (1) natural or synthetic ingredients;

6 (2) the manufacturing process;

7 (3) storage; or

8 (4) migration from packaging.

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

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

17 (2) The Department may only prohibit a manufacturer from selling,
18 offering for sale, distributing for sale, or distributing for use a cosmetic or
19 menstrual product in accordance with this subsection if the Department or at
20 least one other state has determined that a safer alternative is readily available
21 in sufficient quantity and at comparable cost and that the safer alternative

1 performs as well as or better than formaldehyde releasing agents in a specific
2 application of formaldehyde releasing agents to a cosmetic or menstrual
3 product.

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

7 § 2494c. VIOLATIONS

8 (a) A violation of this subchapter is deemed to be a violation of section
9 2453 of this title.

10 (b) The Attorney General has the same authority to make rules, conduct
11 civil investigations, enter into assurances of discontinuance, and bring civil
12 actions, and private parties have the same rights and remedies, as provided
13 under subchapter 1 of this chapter.

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

15 § 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL

16 PRODUCTS

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

21 * * *

- 1 (13) o-phenylenediamine and its salts (CAS 95-54-5); ~~and~~
2 (14) quaternium-15 (CAS 51229-78-8);
3 (15) styrene (CAS 100-42-5);
4 (16) octamethylcyclotetrasiloxane (CAS 556-67-2); and
5 (17) toluene (CAS 108-88-3).

6 * * *

7 * * * PFAS in Consumer Products * * *

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

9 Subchapter 12a. PFAS in Consumer Products

10 § 2494e. DEFINITIONS

11 As used in this subchapter:

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

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

19 (3) “Apparel” means any of the following:

20 (A) Clothing items intended for regular wear or formal occasions,
21 including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits,

1 costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school
2 uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear,
3 formal wear, onesies, bibs, reusable diapers, footwear, and everyday uniforms
4 for workwear. Clothing items intended for regular wear or formal occasions
5 do not include clothing items for exclusive use by the U.S. Armed Forces,
6 outdoor apparel for severe wet conditions, and personal protective equipment.

7 (B) Outdoor apparel.

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

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

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

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

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

21 (A) including a baby or toddler foam pillow; bassinet; bedside

1 sleeper; booster seat; changing pad; infant bouncer; infant carrier; infant seat;
2 infant sleep positioner; infant swing; infant travel bed; infant walker; nap cot;
3 nursing pad; nursing pillow; play mat; playpen; play yard; polyurethane foam
4 mat, pad, or pillow; portable foam nap mat; portable infant sleeper; portable
5 hook-in chair; soft-sided portable crib; stroller; toddler mattress; and
6 disposable, single-use diaper; and

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

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

18 (10) “Medical device” has the same meaning given to “device” in
19 21 U.S.C. § 321.

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

1 fishing.

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

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

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

15 (15) “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 (16) “Rug or carpet” means a fabric marketed or intended for use as a
4 floor covering.

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

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

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

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

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

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

20 component parts;

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

1 including chemical or pharmaceutical manufacturing and environmental
2 control technologies;

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

4 (F) rugs or carpets.

5 § 2494f. AFTERMARKET STAIN AND WATER-RESISTANT

6 TREATMENTS

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

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

12 § 2494g. ARTIFICIAL TURF

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

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

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

19 § 2494h. COOKWARE

20 (a) A manufacturer shall not manufacture, sell, offer for sale, distribute for
21 sale, or distribute for use in this State cookware to which PFAS have been

1 intentionally added in any amount.

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

3 § 2494i. INCONTINENCY PROTECTION PRODUCT

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

7 § 2494j. JUVENILE PRODUCTS

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

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

12 § 2494k. RUGS AND CARPETS

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

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

17 § 2494l. SKI WAX

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

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

1 § 2494m. TEXTILES

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

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

6 § 2494n. CERTIFICATE OF COMPLIANCE

7 (a) The Attorney General may request a certificate of compliance from a
8 manufacturer of a consumer product regulated under this subchapter. Within
9 60 days after receipt of the Attorney General's request for a certificate of
10 compliance, the 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 subchapter; or

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

18 (b) A manufacturer required to submit a certificate of compliance pursuant
19 to this section may rely upon a certificate of compliance provided to the
20 manufacturer by a supplier for the purpose of determining the manufacturer's
21 reporting obligations. A certificate of compliance provided by a supplier in

1 accordance with this subsection shall be used solely for the purpose of
2 determining a manufacturer’s compliance with this section.

3 § 2494o. VIOLATIONS

4 (a) A violation of this subchapter is deemed to be a violation of section
5 2453 of this title.

6 (b) The Attorney General has the same authority to make rules, conduct
7 civil investigations, enter into assurances of discontinuance, and bring civil
8 actions, and private parties have the same rights and remedies, as provided
9 under subchapter 1 of this chapter.

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

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

12 (3) “Apparel” means any of the following:

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

21 (B) Outdoor apparel.

1 (C) Outdoor apparel for severe wet conditions.

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

3 (15) “Regulated perfluoroalkyl and polyfluoroalkyl substances” or
4 “regulated PFAS” means:

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

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

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

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

14 Subchapter 12b. PFAS in Firefighting Agents and Equipment

15 § 2494p. DEFINITIONS

16 As used in this subchapter:

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

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

21 (3) “Manufacturer” means any person engaged in the business of

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

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

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

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

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

1 § 2494q. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

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

5 § 2494r. RESTRICTION ON MANUFACTURE, SALE, AND
6 DISTRIBUTION; EXCEPTIONS

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

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

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

21 (A) does not contain intentionally added PFAS; and

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

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

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

9 (4) an explanation of how:

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

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

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

18 § 2494s. SALE OF PERSONAL PROTECTIVE EQUIPMENT

19 CONTAINING PFAS

20 (a) A manufacturer or other person that sells firefighting equipment to any
21 person, municipality, or State agency shall provide written notice to the

1 purchaser at the time of sale, citing to this subchapter, if the personal protective
2 equipment contains PFAS. The written notice shall include a statement that
3 the personal protective equipment contains PFAS and the reason PFAS are
4 added to the equipment.

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

8 § 2494t. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

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

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

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

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

4 § 2494u. CERTIFICATE OF COMPLIANCE

5 (a) The Attorney General may request a certificate of compliance from a
6 manufacturer of class B firefighting foam or firefighting personal protective
7 equipment. Within 60 days after receipt of the Attorney General’s request for
8 a certificate of compliance, the manufacturer shall:

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

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

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

1 § 2494v. VIOLATIONS

2 (a) A violation of this subchapter is deemed to be a violation of section
3 2453 of this title.

4 (b) The Attorney General has the same authority to make rules, conduct
5 civil investigations, enter into assurances of discontinuance, and bring civil
6 actions, and private parties have the same rights and remedies, as provided
7 under subchapter 1 of this chapter.

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

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

10 Subchapter 12c. Chemicals of Concern in Food Packaging

11 § 2494w. DEFINITIONS

12 As used in this subchapter:

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

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

17 (3) “Food package” or “food packaging” means a package or packaging
18 component that is intended for direct food contact.

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

1 (5) “Ortho-phthalates” means any member of the class of organic
2 chemicals that are esters of phthalic acid containing two carbon chains located
3 in the ortho position.

4 (6) “Package” means a container providing a means of marketing,
5 protecting, or handling a product and shall include a unit package, an
6 intermediate package, and a shipping container. “Package” also means
7 unsealed receptacles, such as carrying cases, crates, cups, pails, rigid foil and
8 other trays, wrappers and wrapping films, bags, and tubs.

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

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

16 § 2494x. FOOD PACKAGING

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

20 (b)(1) Pursuant to 3 V.S.A. chapter 25, the Department may adopt rules
21 prohibiting a manufacturer, supplier, or distributor from selling or offering for

1 sale or for promotional distribution a food package or the packaging
2 component of a food package to which bisphenols have been intentionally
3 added and are present in any amount. The Department may exempt specific
4 chemicals within the bisphenol class when clear and convincing evidence
5 suggests they are not endocrine-active or otherwise toxic.

6 (2) The Department may only prohibit a manufacturer, supplier, or
7 distributor from selling or offering for sale or for promotional distribution a
8 food package or the packaging component of a food package in accordance
9 with this subsection if the Department or at least one other state has determined
10 that a safer alternative is readily available in sufficient quantity and at a
11 comparable cost and that the safer alternative performs as well as or better than
12 bisphenols in a specific application of bisphenols to a food package or the
13 packaging component of a food package.

14 (3) If the Department prohibits a manufacturer, supplier, or distributor
15 from selling or offering for sale or for promotional distribution a food package
16 or the packaging component of a food package in accordance with this
17 subsection, the prohibition shall not take effect until two years after the
18 Department adopts the rules.

19 (c) A manufacturer shall not manufacture, sell, offer for sale, distribute for
20 sale, or distribute for use in this State a food package that includes inks, dyes,
21 pigments, adhesives, stabilizers, coatings, plasticizers, or any other additives to

1 which ortho-phthalates have been intentionally added and are present in any
2 amount.

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

4 § 2494y. CERTIFICATE OF COMPLIANCE

5 (a) The Attorney General may request a certificate of compliance from a
6 manufacturer of food packaging. Within 60 days after receipt of the Attorney
7 General's request for a certificate of compliance, the manufacturer shall:

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

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

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

1 § 2494z. VIOLATIONS

2 (a) A violation of this subchapter is deemed to be a violation of section
3 2453 of this title.

4 (b) The Attorney General has the same authority to make rules, conduct
5 civil investigations, enter into assurances of discontinuance, and bring civil
6 actions, and private parties have the same rights and remedies, as provided
7 under subchapter 1 of this chapter.

8 * * * Engagement and Implementation Plans * * *

9 Sec. 8. COMMUNITY ENGAGEMENT PLAN

10 (a) On or before July 1, 2025, the Department of Health shall develop and
11 submit a community engagement plan to the Senate Committee on Health and
12 Welfare and to the House Committee on Human Services related to the
13 enactment of 9 V.S.A. chapter 63, subchapter 12. The community engagement
14 plan shall:

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

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

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

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

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

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

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

16 Sec. 9. IMPLEMENTATION PLAN; CONSUMER PRODUCTS
17 CONTAINING PFAS

18 (a) The Agency of Natural Resources, in consultation with the Agency of
19 Agriculture, Food and Markets; the Department of Health; and the Office of
20 the Attorney General, shall propose a program requiring the State to identify
21 and restrict the sale and distribution of consumer products containing

1 perfluoroalkyl and polyfluoroalkyl substances (PFAS) that could impact public
2 health and the environment. The proposed program shall:

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

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

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

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

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

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

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

1 reduce risk;

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

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

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

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

21 (d) For the purposes of this section, “consumer products” includes

1 restricted and nonrestricted use pesticides.

2 * * * Repeal * * *

3 Sec. 10. REPEAL; PFAS IN VARIOUS CONSUMER PRODUCTS

4 18 V.S.A. chapter 33 (PFAS in firefighting agents and equipment),
5 18 V.S.A. chapter 33A (chemicals of concern in food packaging), 18 V.S.A.
6 chapter 33B (PFAS in rugs, carpets, and aftermarket stain and water resistant
7 treatments), and 18 V.S.A. chapter 33C (PFAS in ski wax) are repealed on
8 January 1, 2026.

9 * * * Compliance Notification * * *

10 Sec. 11. COMPLIANCE NOTIFICATION

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

18 * * * Lead in Cosmetic Products * * *

19 Sec. 12. LEAD IN COSMETIC PRODUCTS

20 On or before March 1, 2025, the Department of Health shall observe and
21 evaluate Washington's experience of implementing a one part per million limit

1 on the presence of lead in cosmetic products and present the Department's
2 findings to the House Committee on Human Services and to the Senate
3 Committee on Health and Welfare.

4 * * * Effective Dates * * *

5 Sec. 13. EFFECTIVE DATES

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

7 (1) Sec. 1 (chemicals in cosmetic and menstrual products), Sec. 3 (PFAS
8 in consumer products), Sec. 6 (PFAS in firefighting agents and equipment),
9 and Sec. 7 (chemicals of concern in food packaging) shall take effect on
10 January 1, 2026;

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

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