

1

S.25

2 An act relating to regulating cosmetic and menstrual products containing
3 certain chemicals and chemical classes and textiles and athletic turf fields
4 containing perfluoroalkyl and polyfluoroalkyl substances

5 The House proposes to the Senate to amend the bill by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

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

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

9 Subchapter 12. Chemicals in Cosmetic and Menstrual Products

10 § 2494a. DEFINITIONS

11 As used in this subchapter:

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

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

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

1 formaldehyde.

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

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

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

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

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

20 (9) “Professional” means a person granted a license pursuant to
21 26 V.S.A. chapter 6 to practice in the field of barbering, cosmetology,

1 manicuring, or esthetics.

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

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

8 (1) ortho-phthalates;

9 (2) PFAS;

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

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

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

13 (6) 1, 4-dioxane (CAS 123-91-1);

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

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

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

17 (10) asbestos;

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

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

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

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

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

6 (1) natural or synthetic ingredients;

7 (2) the manufacturing process;

8 (3) storage; or

9 (4) migration from packaging.

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

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

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

1 in sufficient quantity and at comparable cost and that the safer alternative
2 performs as well as or better than formaldehyde releasing agents in a specific
3 application of formaldehyde releasing agents to a cosmetic or menstrual
4 product.

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

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

9 § 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL
10 PRODUCTS

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

15 * * *

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

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

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

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

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

21 * * *

1 (e) A manufacturer shall not knowingly manufacture, sell, offer for sale,
2 distribute for sale, or distribute for use in this State any cosmetic or menstrual
3 product that contains lead or lead compounds at or exceeding ten parts per
4 million.

5 * * * PFAS in Consumer Products * * *

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

7 Subchapter 12a. PFAS in Consumer Products

8 § 2494e. DEFINITIONS

9 As used in this subchapter:

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

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

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

18 (A) Clothing items intended for regular wear or formal occasions,
19 including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits,
20 costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school
21 uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear,

1 formal wear, onesies, bibs, reusable diapers, footwear, and everyday uniforms
2 for workwear. Clothing items intended for regular wear or formal occasions
3 do not include clothing items for exclusive use by the U.S. Armed Forces,
4 outdoor apparel for severe wet conditions, and personal protective equipment.

5 (B) Outdoor apparel.

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

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

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

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

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

19 (A) including a baby or toddler foam pillow; bassinet; bedside
20 sleeper; booster seat; changing pad; infant bouncer; infant carrier; infant seat;
21 infant sleep positioner; infant swing; infant travel bed; infant walker; nap cot;

1 nursing pad; nursing pillow; play mat; playpen; play yard; polyurethane foam
2 mat, pad, or pillow; portable foam nap mat; portable infant sleeper; portable
3 hook-in chair; soft-sided portable crib; stroller; toddler mattress; and
4 disposable, single-use diaper; and

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

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

16 (10) “Medical device” has the same meaning given to “device” in
17 21 U.S.C. § 321.

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

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

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

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

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

13 (15) “Regulated perfluoroalkyl and polyfluoroalkyl substances” or
14 “regulated PFAS” means:

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

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

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

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

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

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

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

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

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

19 (D) filtration media and filter products used in industrial applications,
20 including chemical or pharmaceutical manufacturing and environmental
21 control technologies;

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

2 (F) rugs or carpets.

3 § 2494f. AFTERMARKET STAIN AND WATER-RESISTANT

4 TREATMENTS

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

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

10 § 2494h. COOKWARE

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

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

15 § 2494i. INCONTINENCY PROTECTION PRODUCT

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

19 § 2494j. JUVENILE PRODUCTS

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

1 been intentionally added in any amount.

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

3 § 2494k. RUGS AND CARPETS

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

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

8 § 2494l. SKI WAX

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

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

13 § 2494m. TEXTILES

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

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

18 § 2494n. CERTIFICATE OF COMPLIANCE

19 (a) The Attorney General may request a certificate of compliance from a
20 manufacturer of a consumer product regulated under this subchapter. Within
21 60 days after receipt of the Attorney General's request for a certificate of

1 compliance, the manufacturer shall:

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

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

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

15 * * * PFAS in Artificial Turf * * *

16 Sec. 4. 9 V.S.A. § 2494g is added to read:

17 § 2494g. ARTIFICIAL TURF

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

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

21 (2) PFAS have entered the product from the manufacturing or

1 processing of that product, the addition of which is known or reasonably
2 ascertainable by the manufacturer.

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

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

5 (2) “Apparel” means any of the following:

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

14 (B) Outdoor apparel.

15 (C) Outdoor apparel for severe wet conditions.

16 Sec. 6. 9 V.S.A. § 2494e(15) is amended to read:

17 (15) “Regulated perfluoroalkyl and polyfluoroalkyl substances” or

18 “regulated PFAS” means:

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

1 breakdown products of an added chemical that also have a functional or
2 technical effect in the product; or

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

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

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

7 Subchapter 12b. PFAS in Firefighting Agents and Equipment

8 § 2494p. DEFINITIONS

9 As used in this subchapter:

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

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

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

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

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

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

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

14 § 2494q. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

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

18 § 2494r. RESTRICTION ON MANUFACTURE, SALE, AND

19 DISTRIBUTION; EXCEPTIONS

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

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

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

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

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

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

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

4 (4) an explanation of how:

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

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

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

13 § 2494s. SALE OF PERSONAL PROTECTIVE EQUIPMENT

14 CONTAINING PFAS

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

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

4 § 2494t. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

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

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

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

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

19 § 2494u. CERTIFICATE OF COMPLIANCE

20 (a) The Attorney General may request a certificate of compliance from a
21 manufacturer of class B firefighting foam or firefighting personal protective

1 equipment. Within 60 days after receipt of the Attorney General's request for
2 a certificate of compliance, the manufacturer shall:

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

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

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

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

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

18 Subchapter 12c. Chemicals of Concern in Food Packaging

19 § 2494x. DEFINITIONS

20 As used in this subchapter:

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

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

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

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

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

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

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

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

4 § 2494y. FOOD PACKAGING

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

8 (b)(1) Pursuant to 3 V.S.A. chapter 25, the Department may adopt rules
9 prohibiting a manufacturer, supplier, or distributor from selling or offering for
10 sale or for promotional distribution a food package or the packaging
11 component of a food package to which bisphenols have been intentionally
12 added and are present in any amount. The Department may exempt specific
13 chemicals within the bisphenol class when clear and convincing evidence
14 suggests they are not endocrine-active or otherwise toxic.

15 (2) The Department may only prohibit a manufacturer, supplier, or
16 distributor from selling or offering for sale or for promotional distribution a
17 food package or the packaging component of a food package in accordance
18 with this subsection if the Department or at least one other state has determined
19 that a safer alternative is readily available in sufficient quantity and at a
20 comparable cost and that the safer alternative performs as well as or better than

1 bisphenols in a specific application of bisphenols to a food package or the
2 packaging component of a food package.

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

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

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

14 § 2494z. CERTIFICATE OF COMPLIANCE

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

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

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

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

11 * * * Engagement and Implementation Plans * * *

12 Sec. 9. COMMUNITY ENGAGEMENT PLAN

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

18 (1) provide education to the general public on chemicals of concern in
19 cosmetic and menstrual products and specifically address the unique impact
20 these products have on marginalized communities by providing the use of

1 language access services, participant compensation, and other resources that
2 support equitable access to participation; and

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

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

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

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

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

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

1 Sec. 10. IMPLEMENTATION PLAN; CONSUMER PRODUCTS
2 CONTAINING PFAS

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

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

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

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

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

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

1 efforts;

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

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

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

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

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

1 section, the Office of the Attorney General shall post notification of the
2 postponement on its website.

3 * * * Effective Dates * * *

4 Sec. 13. EFFECTIVE DATES

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

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

10 (2) Sec. 2 (9 V.S.A. § 2494b) and Sec. 6 (9 V.S.A. § 2494e(15)) shall
11 take effect on July 1, 2027;

12 (3) Sec. 4 (artificial turf) shall take effect on January 1, 2028; and

13 (4) Sec. 5 (9 V.S.A. § 2494e(2)) shall take effect on July 1, 2028.

14 and that after passage the title of the bill be amended to read: “An act
15 relating to regulating consumer products containing perfluoroalkyl and
16 polyfluoroalkyl substances or other chemicals”