

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 Senate concurs in the House proposal of amendment with the following  
6 proposal of amendment thereto:

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.

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

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

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

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

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

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

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

4           § 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL  
5           PRODUCTS

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

- 10           (1) ortho-phthalates;  
11           (2) PFAS;  
12           (3) formaldehyde (CAS 50-00-0);  
13           (4) methylene glycol (CAS 463-57-0);  
14           (5) mercury and mercury compounds (CAS 7439-97-6);  
15           (6) 1, 4-dioxane (CAS 123-91-1);  
16           (7) isopropylparaben (CAS 4191-73-5);  
17           (8) isobutylparaben (CAS 4247-02-3);  
18           (9) lead and lead compounds (CAS 7439-92-1);  
19           (10) asbestos;  
20           (11) triclosan (CAS 3380-34-5);

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

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

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

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

9           (1) natural or synthetic ingredients;

10           (2) the manufacturing process;

11           (3) storage; or

12           (4) migration from packaging.

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

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

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

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

12 § 2494c. VIOLATIONS

13           (a) A violation of this subchapter is deemed to be a violation of section  
14 2453 of this title.

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

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

20 § 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL

1 PRODUCTS

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

6 \* \* \*

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

12 \* \* \*

13 \* \* \* PFAS in Consumer Products \* \* \*

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

15 Subchapter 12a. PFAS in Consumer Products

16 § 2494e. DEFINITIONS

17 As used in this subchapter:

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

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

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

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

15           (B) Outdoor apparel.

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

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

1 trays, bowls, and cooking utensils.

2 (6) “Incontinency protection product” means a disposable, absorbent

3 hygiene product designed to absorb bodily waste for use by individuals 12

4 years of age and older.

5 (7) “Intentionally added” means the addition of a chemical in a product

6 that serves an intended function in the product component.

7 (8) “Juvenile product” means a product designed or marketed for use by

8 infants and children under 12 years of age:

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

10 sleeper; booster seat; changing pad; infant bouncer; infant carrier; infant seat;

11 infant sleep positioner; infant swing; infant travel bed; infant walker; nap cot;

12 nursing pad; nursing pillow; play mat; playpen; play yard; polyurethane foam

13 mat, pad, or pillow; portable foam nap mat; portable infant sleeper; portable

14 hook-in chair; soft-sided portable crib; stroller; toddler mattress; and

15 disposable, single-use diaper; and

16 (B) excluding a children’s electronic product, such as a personal

17 computer, audio and video equipment, calculator, wireless phone, game

18 console, handheld device incorporating a video screen, or any associated

19 peripheral such as a mouse, keyboard, power supply unit, or power cord; a

20 medical device; or an adult mattress.



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

7           (10) “Medical device” has the same meaning given to “device” in  
8 21 U.S.C. § 321.

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

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

20           (13) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means

1 a class of fluorinated organic chemicals containing at least one fully  
2 fluorinated carbon atom.

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

5 (15) “Regulated perfluoroalkyl and polyfluoroalkyl substances” or  
6 “regulated PFAS” means:

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

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

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

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

18 (18) “Textile” means any item made in whole or part from a natural,  
19 manmade, or synthetic fiber, yarn, or fabric, and includes leather, cotton, silk,  
20 jute, hemp, wool, viscose, nylon, or polyester. “Textile” does not include

1 single-use paper hygiene products, including toilet paper, paper towels, tissues,  
2 or single-use absorbent hygiene products.

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

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

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

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

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

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

16 (F) rugs or carpets.

17 § 2494f. AFTERMARKET STAIN AND WATER-RESISTANT

18 TREATMENTS

19 (a) A manufacturer shall not manufacture, sell, offer for sale, distribute for  
20 sale, or distribute for use in this State aftermarket stain and water-resistant

1 treatments for rugs or carpets to which PFAS have been intentionally added in  
2 any amount.

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

4 § 2494g. ARTIFICIAL TURF

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

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

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

11 § 2494h. COOKWARE

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

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

16 § 2494i. INCONTINENCY PROTECTION PRODUCT

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

20 § 2494j. JUVENILE PRODUCTS

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

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

5       § 2494k. RUGS AND CARPETS

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

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

10      § 2494l. SKI WAX

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

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

15      § 2494m. TEXTILES

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

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

20      § 2494n. CERTIFICATE OF COMPLIANCE

1       (a) The Attorney General may request a certificate of compliance from a  
2       manufacturer of a consumer product regulated under this subchapter. Within  
3       60 days after receipt of the Attorney General’s request for a certificate of  
4       compliance, the manufacturer shall:

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

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

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

18       § 2494o. VIOLATIONS

19       (a) A violation of this subchapter is deemed to be a violation of section  
20       2453 of this title.

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

5                               \* \* \* Amendments to PFAS in Textiles \* \* \*

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

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

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

16               (B) Outdoor apparel.

17               (C) Outdoor apparel for severe wet conditions.

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

19               (15) “Regulated perfluoroalkyl and polyfluoroalkyl substances” or  
20       “regulated PFAS” means:

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

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

8 \* \* \* PFAS in Firefighting Agents and Equipment \* \* \*

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

10 Subchapter 12b. PFAS in Firefighting Agents and Equipment

11 § 2494p. DEFINITIONS

12 As used in this subchapter:

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

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

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



1 case a “manufacturer” includes the importer or first domestic distributor of the  
2 consumer product.

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

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

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

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

16 § 2494q. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

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

20 § 2494r. RESTRICTION ON MANUFACTURE, SALE, AND

1                   DISTRIBUTION; EXCEPTIONS

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

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

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

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

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

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

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

7           (4) an explanation of how:

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

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

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

16   § 2494s. SALE OF PERSONAL PROTECTIVE EQUIPMENT

17                 CONTAINING PFAS

18           (a) A manufacturer or other person that sells firefighting equipment to any  
19 person, municipality, or State agency shall provide written notice to the  
20 purchaser at the time of sale, citing to this subchapter, if the personal protective

1 equipment contains PFAS. The written notice shall include a statement that  
2 the personal protective equipment contains PFAS and the reason PFAS are  
3 added to the equipment.

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

7 § 2494t. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

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

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

17 (1) recall the product and reimburse the retailer or any other purchaser  
18 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

1 determining a manufacturer’s compliance with this section.

2 § 2494v. VIOLATIONS

3 (a) A violation of this subchapter is deemed to be a violation of section

4 2453 of this title.

5 (b) The Attorney General has the same authority to make rules, conduct

6 civil investigations, enter into assurances of discontinuance, and bring civil

7 actions, and private parties have the same rights and remedies, as provided

8 under subchapter 1 of this chapter.

9 \* \* \* Chemicals of Concern in Food Packaging \* \* \*

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

11 Subchapter 12c. Chemicals of Concern in Food Packaging

12 § 2494w. DEFINITIONS

13 As used in this subchapter:

14 (1) “Bisphenols” means any member of a class of industrial chemicals

15 that contain two hydroxyphenyl groups. Bisphenols are used primarily in the

16 manufacture of polycarbonate plastic and epoxy resins.

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

18 (3) “Food package” or “food packaging” means a package or packaging

19 component that is intended for direct food contact.

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

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

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

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

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   § 2494x. FOOD PACKAGING

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

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

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

19       (3) If the Department prohibits a manufacturer, supplier, or distributor  
20 from selling or offering for sale or for promotional distribution a food package



1 or the packaging component of a food package in accordance with this  
2 subsection, the prohibition shall not take effect until two years after the  
3 Department adopts the rules.

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

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

10 § 2494y. CERTIFICATE OF COMPLIANCE

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

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

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

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

7       § 2494z. 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                       \* \* \* Engagement and Implementation Plans \* \* \*

15       Sec. 8. COMMUNITY ENGAGEMENT PLAN

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

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

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

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

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

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

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

18           (b) As used in the section, “marginalized communities” means individuals  
19 with shared characteristics who experience or have historically experienced  
20 discrimination based on race, ethnicity, color, national origin, English language

1 proficiency, disability, gender identity, gender expression, or sexual  
2 orientation.

3 Sec. 9. IMPLEMENTATION PLAN; CONSUMER PRODUCTS

4 CONTAINING PFAS

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

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

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

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

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

1 implement the program;

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

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

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

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

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

1 9 V.S.A. chapter 63, subchapters 12–12c.

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

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

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

12 \* \* \* Repeal \* \* \*

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

14 18 V.S.A. chapter 33 (PFAS in firefighting agents and equipment),  
15 18 V.S.A. chapter 33A (chemicals of concern in food packaging), 18 V.S.A.  
16 chapter 33B (PFAS in rugs, carpets, and aftermarket stain and water resistant  
17 treatments), and 18 V.S.A. chapter 33C (PFAS in ski wax) are repealed on

1 January 1, 2026.

2 \* \* \* Compliance Notification \* \* \*

3 Sec. 11. COMPLIANCE NOTIFICATION

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

11 \* \* \* Lead in Cosmetic Products \* \* \*

12 Sec. 12. LEAD IN COSMETIC PRODUCTS

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

18 \* \* \* Effective Dates \* \* \*

19 Sec. 13. EFFECTIVE DATES

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

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

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

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

8           And that after passage the title of the bill be amended to read:

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