

Senate Calendar

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ACTION CALENDAR

UNFINISHED BUSINESS OF WEDNESDAY, APRIL 17, 2024

House Proposal of Amendment

S. 25.

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

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

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

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

Subchapter 12. Chemicals in Cosmetic and Menstrual Products

§ 2494a. DEFINITIONS

As used in this subchapter:

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

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

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

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

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

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

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

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

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

§ 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL PRODUCTS

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

- (1) ortho-phthalates;
- (2) PFAS;
- (3) formaldehyde (CAS 50-00-0);
- (4) methylene glycol (CAS 463-57-0);
- (5) mercury and mercury compounds (CAS 7439-97-6);
- (6) 1, 4-dioxane (CAS 123-91-1);
- (7) isopropylparaben (CAS 4191-73-5);
- (8) isobutylparaben (CAS 4247-02-3);
- (9) lead and lead compounds (CAS 7439-92-1);
- (10) asbestos;

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

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

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

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

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

(1) natural or synthetic ingredients;

(2) the manufacturing process;

(3) storage; or

(4) migration from packaging.

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

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

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

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

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

§ 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL PRODUCTS

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

* * *

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

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

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

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

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

* * *

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

* * * PFAS in Consumer Products * * *

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

Subchapter 12a. PFAS in Consumer Products

§ 2494e. DEFINITIONS

As used in this subchapter:

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

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

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

(A) Clothing items intended for regular wear or formal occasions, including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school

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

(B) Outdoor apparel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) rugs or carpets.

§ 2494f. AFTERMARKET STAIN AND WATER-RESISTANT TREATMENTS

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

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

§ 2494h. COOKWARE

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

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

§ 2494i. INCONTINENCY PROTECTION PRODUCT

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

§ 2494j. JUVENILE PRODUCTS

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

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

§ 2494k. RUGS AND CARPETS

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

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

§ 2494l. SKI WAX

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

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

§ 2494m. TEXTILES

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

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

§ 2494n. CERTIFICATE OF COMPLIANCE

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

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

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

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

* * * PFAS in Artificial Turf * * *

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

§ 2494g. ARTIFICIAL TURF

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

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

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

* * * Amendments to PFAS in Textiles * * *

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

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

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

(B) Outdoor apparel.

(C) Outdoor apparel for severe wet conditions.

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

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

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

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

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

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

Subchapter 12b. PFAS in Firefighting Agents and Equipment

§ 2494p. DEFINITIONS

As used in this subchapter:

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

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

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

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

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

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

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

§ 2494q. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

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

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

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

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

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

(A) does not contain intentionally added PFAS; and

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

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

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

(4) an explanation of how:

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

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

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

§ 2494s. SALE OF PERSONAL PROTECTIVE EQUIPMENT
CONTAINING PFAS

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

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

§ 2494t. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

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

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

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

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

§ 2494u. CERTIFICATE OF COMPLIANCE

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

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

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

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

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

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

Subchapter 12c. Chemicals of Concern in Food Packaging

§ 2494x. DEFINITIONS

As used in this subchapter:

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

(2) "Department" means the Department of Health.

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

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

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

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

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

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

§ 2494y. FOOD PACKAGING

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

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

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

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

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

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

§ 2494z. CERTIFICATE OF COMPLIANCE

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

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

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

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

* * * Engagement and Implementation Plans * * *

Sec. 9. COMMUNITY ENGAGEMENT PLAN

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

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

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

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

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

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

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

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

Sec. 10. IMPLEMENTATION PLAN; CONSUMER PRODUCTS CONTAINING PFAS

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

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

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

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

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

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

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

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

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

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

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

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

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

* * * Repeal * * *

Sec. 11. REPEAL; PFAS IN VARIOUS CONSUMER PRODUCTS

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

* * * Compliance Notification * * *

Sec. 12. COMPLIANCE NOTIFICATION

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

* * * Effective Dates * * *

Sec. 13. EFFECTIVE DATES

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

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

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

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

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

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

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

UNFINISHED BUSINESS OF TUESDAY, APRIL 23, 2024

Second Reading

Favorable with Proposal of Amendment

H. 534.

An act relating to retail theft.

Reported favorably with recommendation of proposal of amendment by Senator Baruth for the Committee on Judiciary.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 2575 is amended to read:

§ 2575. OFFENSE OF RETAIL THEFT

A person commits the offense of retail theft when the person, with intent of depriving a merchant wrongfully of the lawful possession of merchandise, money, or credit:

(1) takes and carries away or causes to be taken and carried away or aids and abets the carrying away of, any merchandise from a retail mercantile establishment without paying the retail value of the merchandise; or

* * *

Sec. 2. 13 V.S.A. § 2577 is amended to read:

§ 2577. PENALTY

(a) A person convicted of the offense of retail theft of merchandise having a retail value not in excess of \$900.00 shall:

(1) for a first offense, be punished by a fine of not more than \$500.00 or imprisonment for not more than ~~six months~~ 30 days, or both;

(2) for a second offense, be punished by a fine of not more than \$1,000.00 or imprisonment for not more than six months, or both;

(3) for a third offense, be punished by a fine of not more than \$1,500.00 or imprisonment for not more than three years, or both; or

(4) for a fourth or subsequent offense, be punished by a fine of not more than \$2,500.00 or imprisonment for not more than 10 years, or both.

(b) A person convicted of the offense of retail theft of merchandise having a retail value in excess of \$900.00 shall be punished by a fine of not more than \$1,000.00 or imprisonment for not more than 10 years, or both.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-1-0)

(No House amendments)

H. 766.

An act relating to prior authorization and step therapy requirements, health insurance claims, and provider contracts.

Reported favorably with recommendation of proposal of amendment by Senator Lyons for the Committee on Health and Welfare.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

By striking out Sec. 1, 8 V.S.A. § 4089i, in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 8 V.S.A. § 4089i is amended to read:

§ 4089i. PRESCRIPTION DRUG COVERAGE

* * *

(e)(1) A health insurance or other health benefit plan offered by a health insurer or by a pharmacy benefit manager on behalf of a health insurer that provides coverage for prescription drugs and uses step-therapy protocols shall:

(A) not require failure, including discontinuation due to lack of efficacy or effectiveness, diminished effect, or an adverse event, on the same medication on more than one occasion for continuously enrolled members or subscribers insureds who are continuously enrolled in a plan offered by the insurer or its pharmacy benefit manager; and

(B) grant an exception to its step-therapy protocols upon request of an insured or the insured's treating health care professional under the same time parameters as set forth for prior authorization requests in 18 V.S.A. § 9418b(g)(4) if any one or more of the following conditions apply:

(i) the prescription drug required under the step-therapy protocol is contraindicated or will likely cause an adverse reaction or physical or mental harm to the insured;

(ii) the prescription drug required under the step-therapy protocol is expected to be ineffective based on the insured's known clinical history, condition, and prescription drug regimen;

(iii) the insured has already tried the prescription drugs on the protocol, or other prescription drugs in the same pharmacologic class or with the same mechanism of action, which have been discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse event, regardless of whether the insured was covered at the time on a plan offered by the current insurer or its pharmacy benefit manager;

(iv) the insured is stable on a prescription drug selected by the insured's treating health care professional for the medical condition under consideration; or

(v) the step-therapy protocol or a prescription drug required under the protocol is not in the patient's best interests because it will:

(I) pose a barrier to adherence;

(II) likely worsen a comorbid condition; or

(III) likely decrease the insured's ability to achieve or maintain reasonable functional ability.

(2) Nothing in this subsection shall be construed to prohibit the use of tiered co-payments for members or subscribers not subject to a step-therapy protocol.

(3) Notwithstanding any provision of subdivision (1) of this subsection to the contrary, a health insurance or other health benefit plan offered by an insurer or by a pharmacy benefit manager on behalf of a health insurer that provides coverage for prescription drugs shall not utilize a step-therapy, “fail first,” or other protocol that requires documented trials of a medication, including a trial documented through a “MedWatch” (FDA Form 3500), before approving a prescription for the treatment of substance use disorder.

* * *

(i) A health insurance or other health benefit plan offered by a health insurer or by a pharmacy benefit manager on behalf of a health insurer shall cover, for beneficiaries under 18 years of age and without requiring prior authorization, at least one readily available asthma controller medication from each class of medication and mode of administration that is clinically, developmentally, and age appropriate for each age of beneficiary under 18 years of age. As used in this subsection, “readily available” means that the medication is not listed on a national drug shortage list, including lists maintained by the U.S. Food and Drug Administration and by the American Society of Health-System Pharmacists.

(j) As used in this section:

* * *

~~(j)~~(k) The Department of Financial Regulation shall enforce this section and may adopt rules as necessary to carry out the purposes of this section.

(Committee vote: 3-2-0)

(For House amendments, see House Journal of March 12, 2024, pages 436-447)

NEW BUSINESS

Third Reading

H. 27.

An act relating to coercive controlling behavior and abuse prevention orders.

H. 546.

An act relating to administrative and policy changes to tax laws.

H. 868.

An act relating to the fiscal year 2025 Transportation Program and miscellaneous changes to laws related to transportation.

Second Reading

Favorable

H. 350.

An act relating to the Uniform Directed Trust Act.

Reported favorably by Senator Hashim for the Committee on Judiciary.

The Committee on Judiciary recommends that the bill ought to pass in concurrence.

(Committee vote: 5-0-0)

(No House amendments)

H. 884.

An act relating to the modernization of governance for the St. Albans Cemetery Association.

Reported favorably by Senator Norris for the Committee on Government Operations.

The Committee on Government Operations recommends that the bill ought to pass in concurrence.

(Committee vote: 5-0-1)

(No House amendments)

Favorable with Proposal of Amendment

H. 883.

An act relating to making appropriations for the support of government.

Reported favorably with recommendation of proposal of amendment by Senator Kitchel for the Committee on Appropriations.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

(For text of the report of the Committee on Appropriations, see Addendum to Senate Calendar for April 23, 2024)

(Committee vote: 7-0-0)

(For House amendments, see House Journal of March 28, 2024, pages 988-990)

House Proposal of Amendment

S. 189.

An act relating to mental health response service guidelines and social service provider safety

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

Sec. 1. 18 V.S.A. § 7260 is added to read:

§ 7260. MENTAL HEALTH RESPONSE SERVICE GUIDELINES

(a) The Department shall develop guidelines for use by municipalities, including use by emergency medical technicians and public safety personnel, such as law enforcement officers as defined by 20 V.S.A. § 2351a and firefighters as defined in 20 V.S.A. § 3151, who are employed, volunteer, or are under contract with a municipality. The guidelines shall recommend best practices for de-escalation and for mental health response services, including crisis response services. The Department shall make the guidelines available to municipalities and publish the guidelines on the Department's website.

(b) In developing the guidelines required pursuant to subsection (a) of this section, the Department shall consult with the following entities:

- (1) the Department of Health;
- (2) the Department of Disabilities, Aging, and Independent Living;
- (3) the Department of Public Safety;
- (4) the Vermont Care Partners;
- (5) the Vermont Psychiatric Survivors;
- (6) the Vermont chapter of the National Alliance on Mental Illness;
- (7) the Vermont Criminal Justice Council;
- (8) the Vermont League of Cities and Towns;
- (9) Disability Rights Vermont;
- (10) the Department's State Program Standing Committees; and
- (11) any other stakeholders the Department deems appropriate.

Sec. 2. PRESENTATION; SOCIAL SERVICE PROVIDER SAFETY

(a) On or before November 15, 2024, the Agency of Human Services, in collaboration with the Vermont chapter of the National Association of Social Workers, shall convene one or more meetings related to social service provider safety with community-based social service organizations.

(1) The following community-based social service organizations, professions, and individuals may be included in the meeting or meetings described in this subsection:

(A) the Vermont Network Against Domestic and Sexual Violence;

(B) the Vermont Coalition to End Homelessness;

(C) mental health and health care providers;

(D) community action programs;

(E) restorative justice service providers;

(F) disability service providers and advocates;

(G) individuals with lived experience of a mental health condition, substance use disorder, or any other condition or circumstance requiring social work services; and

(H) any other stakeholder deemed appropriate by the Agency.

(2) In advance of the meeting or meetings described in this subsection, the participating community-based social service organizations and individuals from a participating profession may review relevant studies related to social service provider safety and individual social service provider safety experiences.

(b) On or before January 31, 2025, the Agency of Human Services, in collaboration with the Vermont chapter of the National Association of Social Workers, shall present findings and recommendations to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare, including a list of the community-based social service organizations that participated in the meeting or meetings and the number of meetings convened.

Sec. 3. 33 V.S.A. § 6309 is added to read:

§ 6309. STAFF SAFETY; DISCHARGE FROM SERVICE

(a) If an individual was previously discharged from service by a home health agency to protect the safety of staff in accordance with the rules adopted by the Department of Disabilities, Aging, and Independent Living pursuant to

subsection 6303(a) of this chapter, and the behavior or conditions causing the discharge cannot be reasonably mitigated or eliminated, a home health agency may:

(1) deny a subsequent admission; or

(2) decline to send a home health agency employee to make a visit if the home health agency has reason to believe that the individual who exhibited the behavior that resulted in the discharge is present in the home.

(b) Nothing in this section shall be construed to require a home health agency to enter a home to determine if a risk can be mitigated or eliminated.

(c) A home health agency shall provide notice of any denial of admission made pursuant to this section. The notice shall include the reason for the denial of admission and information regarding how an individual may submit a complaint pursuant to section 6308 of this chapter in accordance with the rules adopted by the Department of Disabilities, Aging, and Independent Living pursuant to subsection 6303(a) of this chapter.

Sec. 4. REPORT; HOME HEALTH AGENCY SAFETY DISCHARGES

On or after February 15, 2025, in consultation with home health agencies, the Department of Disabilities, Aging, and Independent Living shall provide an update to the House Committee on Health Care and the Senate Committee on Health and Welfare regarding the implementation of Sec. 3 (33 V.S.A. § 6309) of this act. Specifically, the update shall address:

(1) the number of safety discharges made by home health agencies during the previous calendar year;

(2) the nature of the risks posed that result in a safety discharge; and

(3) the number of individuals denied subsequent admission to or services from a home health agency due to a previous safety discharge.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

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

An act relating to mental health response service guidelines and the safety of social service and home health providers

NOTICE CALENDAR

Second Reading

Favorable

H. 289.

An act relating to the Renewable Energy Standard.

Reported favorably by Senator Bray for the Committee on Natural Resources and Energy.

The Committee on Natural Resources and Energy recommends that the bill ought to pass in concurrence.

(Committee vote: 4-1-0)

(For House amendments, see House Journal of March 20, 2024 pages 647-669)

Favorable with Proposal of Amendment

H. 606.

An act relating to professional licensure and immigration status.

Reported favorably with recommendation of proposal of amendment by Senator White for the Committee on Government Operations.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

(a) The purpose of this act is to amend the laws of Vermont to allow any individual who meets the standards required by the State to obtain a professional or occupational license or certification, regardless of that individual's immigration status.

(b) The General Assembly acts pursuant to the authority provided in section 411 of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, Title IV, § 411, codified at 8 U.S.C. § 1621(d), as such section existed on January 1, 2024.

(c) Nothing in this act shall be construed to grant eligibility for any public benefits, as defined in 8 U.S.C. § 1621(c), other than obtaining a professional license.

Sec. 2. 3 V.S.A. § 139 is added to read:

§ 139. IMMIGRATION STATUS

(a) Notwithstanding any provision of law to the contrary, an applicant shall not be denied any professional license or certification enumerated in this title or Titles 16, 20, or 26 of the Vermont Statutes Annotated on the basis of the applicant's citizenship status or immigration status or lack thereof.

(b) If an applicant is required by State law to provide a Social Security number for the purpose of obtaining or maintaining a professional license or certification under this title or Titles 16, 20, or 26 of the Vermont Statutes Annotated, the applicant may provide a federal employer identification number, an individual taxpayer identification number, or a Social Security number; provided, however, that an applicant shall provide a Social Security number if a federal law or an interstate compact of which the State is a member requires that an applicant provide a Social Security number to obtain or maintain a professional license.

Sec. 3. EFFECTIVE DATE

This act shall take effect on September 1, 2024.

(Committee vote: 5-1-0)

(For House amendments, see House Journal of March 19, 2024, page 586)

Reported favorably by Senator McCormack for the Committee on Finance.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

(Committee vote: 6-0-1)

H. 706.

An act relating to banning the use of neonicotinoid pesticides.

Reported favorably with recommendation of proposal of amendment by Senator Collamore for the Committee on Agriculture.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Wild and managed pollinators are essential to the health and vitality of Vermont's agricultural economy, environment, and ecosystems. According to the Department of Fish and Wildlife (DFW), between 60 and 80 percent of the State's wild plants depend on pollinators to reproduce.

(2) Vermont is home to thousands of pollinators, including more than 300 native bee species. Many pollinator species are in decline or have disappeared from Vermont, including three bee species that the State lists as endangered. The Vermont Center for Ecostudies and DFW's State of Bees 2022 Report concludes that at least 55 of Vermont's native bee species need significant conservation action.

(3) Neonicotinoids are a class of neurotoxic, systemic insecticides that are extremely toxic to bees and other pollinators. Neonicotinoids are the most widely used class of insecticides in the world and include imidacloprid, clothianidin, thiamethoxam, acetamiprid, dinotefuran, thiacloprid, and nithiazine.

(4) Among other uses, neonicotinoids are commonly applied to crop seeds as a prophylactic treatment. More than 90 percent of neonicotinoids applied to treated seeds move into soil, water, and nontarget plants. According to the Agency of Agriculture, Food and Markets, at least 1197.66 tons of seeds sold in Vermont in 2022 were treated with a neonicotinoid product.

(5) Integrated pest management is a pest management technique that protects public health, the environment, and agricultural productivity by prioritizing nonchemical pest management techniques. Under integrated pest management, pesticides are a measure of last resort. According to the European Academies Science Advisory Council, neonicotinoid seed treatments are incompatible with integrated pest management.

(6) A 2020 Cornell University report that analyzed more than 1,100 peer-reviewed studies found that neonicotinoid corn and soybean seed treatments pose substantial risks to bees and other pollinators but provide no overall net income benefits to farms. DFW similarly recognizes that neonicotinoid use contributes to declining pollinator populations.

(7) A 2014 peer-reviewed study conducted by the Harvard School of Public Health and published in the journal Bulletin of Insectology concluded that sublethal exposure to neonicotinoids is likely to be the main culprit for the occurrence of colony collapse disorder in honey bees.

(8) A 2020 peer-reviewed study published in the journal Nature Sustainability found that increased neonicotinoid use in the United States between 2008 and 2014 led to statistically significant reductions in bird biodiversity, particularly among insectivorous and grassland birds.

(9) A 2022 peer-reviewed study published in the journal Environmental Science and Technology found neonicotinoids in 95 percent of the 171 pregnant women who participated in the study. Similarly, a 2019 peer-reviewed study published in the journal Environmental Research found that 49.1 percent of the U.S. general population had recently been exposed to neonicotinoids.

(10) The European Commission and the provinces of Quebec and Ontario have implemented significant prohibitions on the use of neonicotinoids.

(11) The New York General Assembly passed legislation that prohibits the sale or use of corn, soybean, and wheat seed treated with imidacloprid, clothianidin, thiamethoxam, dinotefuran, or acetamiprid. The same legislation prohibits the nonagricultural application of imidacloprid, clothianidin, thiamethoxam, dinotefuran, or acetamiprid to outdoor ornamental plants and turf.

Sec. 2. 6 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter unless the context clearly requires otherwise:

(1) “Secretary” ~~shall have~~ has the same meaning stated in subdivision 911(4) of this title.

(2) “Cumulative” when used in reference to a substance means that the substance so designated has been demonstrated to increase twofold or more in concentration if ingested or absorbed by successive life forms.

(3) “Dealer or pesticide dealer” means any person who regularly sells pesticides in the course of business, but not including a casual sale.

(4) “Economic poison” ~~shall have~~ has the same meaning stated in subdivision 911(5) of this title.

(5) “Pest” means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or ~~virus~~ viruses, bacteria, or other microorganisms that the Secretary declares as being injurious to health or environment. “Pest shall” does not mean any viruses, bacteria, or other microorganisms on or in living humans or other living animals.

(6) “Pesticide” for the purposes of this chapter shall ~~be~~ is used interchangeably with “economic poison.”

(7) “Treated article” means a pesticide or class of pesticides exempt under 40 C.F.R. § 152.25(a) from regulation under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136-136y.

(8) “Neonicotinoid pesticide” means any economic poison containing a chemical belonging to the neonicotinoid class of chemicals.

(9) “Neonicotinoid treated article seeds” are treated article seeds that are treated or coated with a neonicotinoid pesticide.

(10) “Agricultural commodity” means any food in its raw or natural state, including all fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

(11) “Agricultural emergency” means an occurrence of any pest that presents an imminent risk of significant harm, injury, or loss to agricultural crops.

(12) “Bloom” means the period from the onset of flowering or inflorescence until petal fall is complete.

(13) “Crop group” means the groupings of agricultural commodities specified in 40 C.F.R. § 180.41(c) (2023).

(14) “Environmental emergency” means an occurrence of any pest that presents a significant risk of harm or injury to the environment, or significant harm, injury, or loss to agricultural crops, including any exotic or foreign pest that may need preventative quarantine measures to avert or prevent that risk, as determined by the Secretary of Agriculture, Food and Markets.

(15) “Ornamental plants” mean perennials, annuals, and groundcover purposefully planted for aesthetic reasons.

Sec. 3. 6 V.S.A. § 1105b is added to read:

§ 1105b. USE AND SALE OF NEONICOTINOID TREATED ARTICLE SEEDS

(a) No person shall sell, offer for sale or use, distribute, or use any neonicotinoid treated article seed for soybeans or for any crop in the cereal grains crop group (crop groups 15, 15-22, 16, and 16-22).

(b) The Secretary of Agriculture, Food and Markets, after consultation with the Secretary of Natural Resources, may issue a written exemption order to suspend the provisions of subsection (a) of this section, only if the following conditions are met:

(1) the person seeking the exemption order shall complete an integrated pest management training, provided by the Secretary or an approved third party;

(2) the person seeking the exemption order shall complete a pest risk assessment and submit a pest risk assessment report to the Secretary;

(3) any seeds authorized for use under the exemption order shall be planted only on the property or properties identified in the pest risk assessment report; and

(4) the persons seeking the exemption order shall maintain current records of the pest risk assessment report and records of when treated seeds are planted, both of which shall be subject to review upon request by the Secretary.

(c) A written exemption order issued under subsection (b) of this section shall:

(1) not be valid for more than one year; and

(2) specify the types of neonicotinoid treated article seeds to which the exemption order applies, the date on which the exemption order takes effect, and the exemption order's duration.

(d) A written exemption order issued under subsection (b) of this section may:

(1) establish restrictions related to the use of neonicotinoid treated article seeds to which the exemption order applies to minimize harm to pollinator populations, bird populations, ecosystem health, and public health; and

(2) establish other restrictions related to the use of neonicotinoid treated article seeds to which the exemption order applies that the Secretary of Agriculture, Food and Markets considers necessary.

(e) Upon issuing a written exemption order under subsection (b) of this section, the Secretary of Agriculture, Food and Markets shall submit a copy of the exemption order to the Senate Committees on Natural Resources and Energy and on Agriculture; the House Committees on Environment and Energy and on Agriculture, Food Resiliency, and Forestry; and the Agricultural Innovation Board. The General Assembly shall post the written exemption order to the website of the General Assembly.

(f) The Secretary of Agriculture, Food and Markets, after consultation with the Secretary of Natural Resources, may rescind a written exemption order issued under subsection (b) of this section at any time. Such rescission shall

come into effect not sooner than 30 days after its issuance and shall not apply to neonicotinoid treated article seeds planted or sown before such recission comes into effect.

Sec. 4. 6 V.S.A. § 1105c is added to read:

§ 1105c. NEONICOTINOID PESTICIDES; PROHIBITED USES

(a) The following uses of neonicotinoid pesticides are prohibited:

(1) the outdoor application of neonicotinoid pesticides to any crop during bloom;

(2) the outdoor application of neonicotinoid pesticides to soybeans or any crop in the cereal grains crop group (crop groups 15, 15-22, 16, and 16-22);

(3) the outdoor application of neonicotinoid pesticides to crops in the leafy vegetables; brassica; bulb vegetables; herbs and spices; and stalk, stem, and leaf petiole vegetables crop groups (crop groups 3, 3-07, 4, 4-16, 5, 5-16, 19, 22, 25, and 26) harvested after bloom; and

(4) the application of neonicotinoid pesticides to ornamental plants.

(b) The Secretary of Agriculture, Food and Markets, after consultation with the Secretary of Natural Resources, may issue a written exemption order to suspend the provisions of subsection (a) of this section if the Secretary determines that:

(1) a valid environmental emergency or agricultural emergency exists;

(2) the pesticide would be effective in addressing the environmental emergency or the agricultural emergency; and

(3) no other, less harmful pesticide or pest management practice would be effective in addressing the environmental emergency or the agricultural emergency.

(c) A written exemption order issued under subsection (b) of this section shall:

(1) not be valid for more than one year;

(2) specify the neonicotinoid pesticides, uses, and crops, or plants to which the exemption order applies; the date on which the exemption order takes effect; the exemption order's duration; and the exemption order's geographic scope, which may include specific farms, fields, or properties; and

(3) provide a detailed evaluation determining that an agricultural emergency or an environmental emergency exists.

(d) A written exemption order issued under subsection (b) of this section may:

(1) establish restrictions related to the use of neonicotinoid pesticides to which the exemption order applies to minimize harm to pollinator populations, bird populations, ecosystem health, and public health; or

(2) establish other restrictions related to the use of neonicotinoid pesticides to which the exemption order applies that the Secretary of Agriculture, Food and Markets considers necessary.

(e) Upon issuing a written exemption order under subsection (b) of this section, the Secretary of Agriculture, Food and Markets shall submit a copy of the exemption order to the Senate Committees on Natural Resources and Energy and on Agriculture; the House Committees on Environment and Energy and on Agriculture, Food Resiliency, and Forestry; and the Agricultural Innovation Board. The General Assembly shall post the written exemption order to the website of the General Assembly.

(f) The Secretary of Agriculture, Food and Markets, after consultation with the Secretary of Natural Resources, may rescind any written exemption order issued under subsection (b) of this section at any time. Such rescission shall come into effect not sooner than 15 days after its issuance.

Sec. 5. 6 V.S.A. § 918 is amended to read:

§ 918. REGISTRATION

(a) Every economic poison that is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered in the Office of the Secretary, and such registration shall be renewed annually, provided that products that have the same formula are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison, and additional names and labels shall be added by supplemental statements during the current period of registration. It is further provided that any economic poison imported into this State, which is subject to the provisions of any federal act providing for the registration of economic poisons and that has been duly registered under the provisions of this chapter, may, in the discretion of the Secretary, be exempted from registration under this chapter when sold or distributed in the unbroken immediate container in which it was originally shipped. The registrant shall file with the Secretary a statement including:

* * *

(f) ~~The~~ Unless the use or sale of a neonicotinoid pesticide is otherwise prohibited, the Secretary shall register as a restricted use pesticide any neonicotinoid pesticide labeled as approved for outdoor use that is distributed, sold, sold into, or offered for sale within the State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State, provided that the Secretary shall not register the following products as restricted use pesticides unless classified under federal law as restricted use products:

(1) pet care products used for preventing, destroying, repelling, or mitigating fleas, mites, ticks, heartworms, or other insects or organisms;

(2) personal care products used for preventing, destroying, repelling, or mitigating lice or bedbugs; and

(3) indoor pest control products used for preventing, destroying, repelling, or mitigating insects indoors; ~~and~~

~~(4) treated article seed.~~

Sec. 6. 6 V.S.A. § 1105a(c) is amended to read:

(c)(1) Under subsection (a) of this section, the Secretary of Agriculture, Food and Markets, after consultation with the Agricultural Innovation Board, shall adopt by rule BMPs for the use in the State of:

(A) neonicotinoid treated article seeds when used prior to January 1, 2031;

(B) neonicotinoid treated article seeds when the Secretary issues a written exemption order pursuant to section 1105b of this chapter authorizing the use of neonicotinoid treated article seeds;

(C) neonicotinoid pesticides when the Secretary issues a written exemption order pursuant to section 1105c of this chapter authorizing the use of neonicotinoid pesticides; and

(D) the agricultural use after July 1, 2025 of neonicotinoid pesticides the use of which is not otherwise prohibited under law.

(2) In developing the rules with the Agricultural Innovation Board, the Secretary shall address:

(A) establishment of threshold levels of pest pressure required prior to use of neonicotinoid treated article seeds or neonicotinoid pesticides;

(B) availability of nontreated article seeds that are not neonicotinoid treated article seeds;

(C) economic impact from crop loss as compared to crop yield when neonicotinoid treated article seeds or neonicotinoid pesticides are used;

(D) relative toxicities of different neonicotinoid treated article seeds or neonicotinoid pesticides and the effects of neonicotinoid treated article seeds or neonicotinoid pesticides on human health and the environment;

(E) surveillance and monitoring techniques for in-field pest pressure;

(F) ways to reduce pest harborage from conservation tillage practices; and

(G) criteria for a system of approval of neonicotinoid treated article seeds or neonicotinoid pesticides.

~~(2)~~(3) In implementing the rules required under this subsection, the Secretary of Agriculture, Food and Markets shall work with farmers, seed companies, and other relevant parties to ensure that farmers have access to appropriate varieties and amounts of untreated seed or treated seed that are not neonicotinoid treated article seeds.

Sec. 7. 2022 Acts and Resolves No. 145, Sec. 4 is amended to read:

Sec. 4. IMPLEMENTATION; REPORT; RULEMAKING

(a) On or before March 1, 2024, the Secretary of Agriculture, Food, and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture, Food Resiliency, and Forestry a copy of the proposed rules required to be adopted under 6 V.S.A. § 1105a(c)(1)(A).

(b) The Secretary of Agriculture shall not file the final proposal of the rules required by 6 V.S.A. § 1105a(c)(1)(A) under 3 V.S.A. § 841 until at least 90 days from submission of the proposed rules to the General Assembly under subsection (a) of this section or July 1, 2024, ~~which ever~~ whichever shall occur first.

Sec. 8. CONTINGENT REPEAL

(a) 6 V.S.A. §1105b (use and sale of neonicotinoid treated article seeds; prohibition) shall be repealed if the prohibition on the use of neonicotinoid treated article seed in New York under N.Y. Environmental Conservation Law § 37-1101(1) is repealed.

(b) 6 V.S.A. § 1105c (neonicotinoid pesticides; prohibited uses) shall be repealed if the prohibition on the use of neonicotinoid pesticides on ornamental plants in New York under N.Y. Environmental Conservation Law § 37-1101(2) is repealed.

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 2 (definitions), 5 (registration), 6 (BMP rules), 7 (implementation), and 8 (contingent repeal) shall take effect on passage.

(b) Sec. 4 (prohibited use; neonicotinoid pesticides) shall take effect on July 1, 2025, provided that the prohibition on the use of neonicotinoid pesticides on ornamental plants in New York under N.Y. Environmental Conservation Law § 37-1101(2) is in effect on July 1, 2025. If N.Y. Environmental Conservation Law § 37-1101(2) is not in effect on July 1, 2025, Sec. 4 of this act shall not take effect until the effective date of N.Y. Environmental Conservation Law § 37-1101(2).

(c) Sec. 3 (treated article seed) shall take effect on January 1, 2031, provided that the prohibition on the use of neonicotinoid treated article seed in New York under N.Y. Environmental Conservation Law § 37-1101(1) is in effect on January 1, 2031. If N.Y. Environmental Conservation Law § 37-1101(1) is not in effect on January 1, 2031, Sec. 3 of this act shall not take effect until the effective date of N.Y. Environmental Conservation Law § 37-1101(1).

(Committee vote: 4-1-0)

(For House amendments, see House Journal of March 21, 2024, pages 685-694)

Reported favorably by Senator Westman for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Agriculture.

(Committee vote: 6-0-1)

ORDERED TO LIE

S. 94.

An act relating to the City of Barre tax increment financing district.

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Julie Hulburd of Colchester - Member, Cannabis Control Board - Sen. Vyhovsky for the Committee on Government Operations. (4/10/2024)

JFO NOTICE

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3):

JFO #3198: Bargain sale of timber rights to the Agency of Natural Resources, Department of Fish and Wildlife from the A Johnson Co., LLC. Vermont acquired the current Pond Woods Wildlife Management Area in Benson and Orwell, VT in the 1960s. At that time the A Johnson Co. retained the timber rights. The State now has the opportunity to acquire the timber rights, valued at \$2,320,529.00, for \$900,000.00. Acquisition of the timber rights will allow greater control over the property management. The \$900,000.00 sale price plus closing costs is covered by ongoing, annual funding from the U.S. Department of Fish and Wildlife.

[Received March 24, 2024]

JFO #3199: \$1,000,000.00 from the U.S. Department of Energy through Vermont Energy Efficiency Coop to the Vermont Military Department. Funds will be used for facility upgrades in the Westminster and Berlin Armories to help study the effects of thermal energy storage on heating and cooling loads in electrified facilities. The grant requires a 20% state match of \$250,000.00 which will be funded through an appropriation of existing capital funds.

[Received April 18, 2024]

FOR INFORMATION ONLY

CROSSOVER DATES

The Joint Rules Committee established the following crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 15, 2024**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day. House Committee bills must be voted out of Committee by Friday, March 15, 2024 and introduced the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 22, 2024**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, Pay Bill, and Miscellaneous Tax Bill).