

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Human Services to which was referred Senate Bill No.
3 25 entitled “An act relating to regulating cosmetic and menstrual products
4 containing certain chemicals and chemical classes and textiles and athletic turf
5 fields containing perfluoroalkyl and polyfluoroalkyl substances” respectfully
6 reports that it has considered the same and recommends that the House propose
7 to the Senate that the bill be amended by striking out all after the enacting
8 clause and inserting in lieu thereof the following:

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

10 Sec. 1. 18 V.S.A. chapter 33B is added to read:

11 CHAPTER 33B. CHEMICALS IN COSMETIC AND MENSTRUAL
12 PRODUCTS

13 § 1681. DEFINITIONS

14 As used in this chapter:

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

18 (2) “Cosmetic product” means articles or a component of articles
19 intended to be rubbed, poured, sprinkled, or sprayed on; introduced into; or
20 otherwise applied to the human body or any part thereof for cleansing,
21 promoting attractiveness, or improving or altering appearance, including those

1 intended for use by professionals. “Cosmetic product” does not mean soap,
2 dietary supplements, or food and drugs approved by the U.S. Food and Drug
3 Administration.

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

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

8 (5) “Manufacturer” means any person engaged in the business of
9 making or assembling a consumer product directly or indirectly available to
10 consumers. “Manufacturer” shall exclude a distributor or retailer, except when
11 a product is imported into the United States, in which case a “manufacturer”
12 shall include the importer or first domestic distributor of the product if the
13 person that made or assembled the product or whose brand name is affixed to
14 the product does not have a presence in the United States.

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

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

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

4 (9) “Professional” means a person granted a license pursuant to
5 26 V.S.A. chapter 6 to practice in the field of barbering, cosmetology,
6 manicuring, or esthetics.

7 § 1682. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL
8 PRODUCTS

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

13 (1) ortho-phthalates;

14 (2) PFAS;

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

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

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

18 (6) 1, 4-dioxane (CAS 123-91-1);

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

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

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

1 (10) asbestos;

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

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

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

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

6 (15) octamethylcyclotetrasiloxane (CAS 556-67-2); and

7 (16) toluene (CAS 108-88-3).

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

13 (1) natural or synthetic ingredients;

14 (2) the manufacturing process;

15 (3) storage; or

16 (4) migration from packaging.

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

21 (2) Notwithstanding subdivision (1) of this subsection, if the

1 Department of Health adopts an alternative threshold below 10 parts per
2 million in rule pursuant to 3 V.S.A. chapter 25, a manufacturer shall not
3 knowingly manufacture, sell, offer, for sale, distribute for sale, or distribute for
4 use in this State any cosmetic or menstrual product that contains lead or lead
5 compounds in or exceeding the amount established by the Department in rule.

6 § 1683. PENALTIES

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

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

14 * * * PFAS in Consumer Products * * *

15 Sec. 2. 18 V.S.A. chapter 33C is amended to read:

16 CHAPTER 33C. PFAS IN SKI-WAX CONSUMER PRODUCTS

17 § 1691. DEFINITIONS

18 As used in this chapter:

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

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

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

9 (B) Outdoor apparel.

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

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

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

1 trays, bowls, and cooking utensils.

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

3 ~~(2)~~(7) “Intentionally added” means the addition of a chemical in a
4 product that serves an intended function in the product component.

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

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

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

19 (9) “Manufacturer” means any person engaged in the business of
20 making or assembling a consumer product directly or indirectly available to
21 consumers. “Manufacturer” shall exclude a distributor or retailer, except when

1 a product is imported into the United States, in which case a “manufacturer”
2 shall include the importer or first domestic distributor of the product if the
3 person that made or assembled the product or whose brand name is affixed to
4 the product does not have a presence in the United States.

5 (10) “Medical device” has the same meaning given to “device” in
6 21 U.S.C. § 321.

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

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

18 ~~(3)~~ (13) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” has
19 the same meaning as in section 1661 of this title.

20 (14) “Personal protective equipment” has the same meaning as in
21 section 1661 of this title.

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

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

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

10 (16) “Rug or carpet” means a thick fabric used to cover floors.

11 ~~(4)~~(17) “Ski wax” means a lubricant applied to the bottom of snow
12 runners, including skis and snowboards, to improve their grip and glide
13 properties.

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

19 (19) “Textile articles” means textile goods of a type customarily and
20 ordinarily used in households and businesses, and includes apparel,
21 accessories, handbags, backpacks, draperies, shower curtains, furnishings,

1 upholstery, bedding, towels, napkins, and table cloths. “Textile articles” does
2 not include:

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

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

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

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

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

11 § 1692. SKI WAX

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

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

17 § 1692a. AFTERMARKET STAIN AND WATER-RESISTANT

18 TREATMENTS

19 (a) A manufacturer, supplier, or distributor shall not manufacture, sell,
20 offer for sale, distribute for sale, or distribute for use in this State aftermarket

1 stain and water-resistant treatments for rugs or carpets to which PFAS have
2 been intentionally added in any amount.

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

4 § 1682b. ATHLETIC TURF FIELDS

5 (a) A manufacturer, supplier, or distributor shall not manufacture, sell,
6 offer for sale, distribute for sale, or distribute for use in this State an athletic
7 turf field to which:

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

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

12 (b) This section shall not apply to the sale of athletic turf fields that have
13 already been approved by voters prior to January 1, 2025.

14 § 1682c. COOKWARE

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

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

19 § 1682d. JUVENILE PRODUCTS

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

1 products to which PFAS have been intentionally added in any amount.

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

3 § 1692e. RUGS AND CARPETS

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

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

8 § 1692f. TEXTILES

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

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

14 § 1693. CERTIFICATE OF COMPLIANCE

15 The Attorney General may request a certificate of compliance from a
16 manufacturer of ski wax a consumer product regulated under this chapter.

17 Within 30 days after receipt of the Attorney General's request for a certificate
18 of compliance, the manufacturer shall:

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

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

5 § 1694. RULEMAKING

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

9 § 1695. PENALTIES

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

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

17 Sec. 3. 18 V.S.A. § 1691(15) is amended to read:

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

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

1 components of intentionally added chemicals and PFAS that are intentional
2 breakdown products of an added chemical that also have a functional or
3 technical effect in the product; or

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

6 Sec. 4. 18 V.S.A. § 1691(2) is amended to read:

7 (2) “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, diapers, footwear, and everyday uniforms for
13 workwear. Clothing items intended for regular wear or formal occasions does
14 not include clothing items for exclusive use by the U.S. Armed Forces, ~~outdoor~~
15 ~~apparel for severe wet conditions~~, and personal protective equipment.

16 (B) Outdoor apparel.

17 (C) Outdoor apparel for severe wet conditions.

18 * * * Engagement and Implementation Plans * * *

19 Sec. 5. COMMUNITY ENGAGEMENT PLAN

20 On or before December 1, 2024, the Department of Health shall develop
21 and submit a community engagement plan to the Senate Committee on Health

1 and Welfare and to the House Committee on Human Services related to the
2 enactment of 18 V.S.A. chapter 36. The community engagement plan shall:

3 (1) outline methodology and costs to conduct outreach for the purpose
4 of identifying cosmetic products marketed to or utilized by historically
5 oppressed and marginalized populations in Vermont, including the cost of
6 translation services, participant compensation, and other resources that support
7 equitable access to participation;

8 (2) outline methodology and costs to conduct research on the prevalence
9 of potentially harmful ingredients within products marketed to or utilized by
10 historically oppressed and marginalized populations in Vermont;

11 (3) outline methodology and to create a culturally appropriate public
12 health awareness campaign concerning harmful ingredients used in cosmetic
13 products; and

14 (4) propose a recommended process for regulating chemicals or
15 products containing potentially harmful ingredients marketed to or utilized by
16 historically oppressed and marginalized populations in Vermont.

17 Sec. 6. IMPLEMENTATION PLAN; CONSUMER PRODUCTS

18 CONTAINING PFAS

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

1 and restrict the sale and distribution of consumer products containing
2 perfluoroalkyl and polyfluoroalkyl substances (PFAS) that could impact public
3 health and the environment. The proposed program shall:

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

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

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

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

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

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

20 (7) propose a related public service announcement program and website
21 content to inform the public and health care providers about the potential

1 public health impacts of exposure to PFAS and actions that can be taken to
2 reduce risk; and

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

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

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

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

16 * * * Repeal * * *

17 **Sec. 7. REPEAL; PFAS IN RUGS, CARPETS, AND AFTERMARKET**

18 **STAIN AND WATER-RESISTANT TREATMENTS**

19 **18 V.S.A. chapter 33B (PFAS in rugs, carpets, and aftermarket stain and**

1 water-resistant treatments) is repealed on January 1, 2025.

2 * * * Effective Dates * * *

3 Sec. 8. EFFECTIVE DATES

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

5 (1) Sec. 2 (PFAS in consumer products) shall take effect on January 1,
6 2025;

7 (2) Sec. 1 (chemicals in cosmetic and menstrual products) and Sec. 3
8 (18 V.S.A. § 1691(15)) shall take effect on July 1, 2027; and

9 (3) Sec. 4 (18 V.S.A. § 1691(2)) shall take effect on July 1, 2028.

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

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19 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE