

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred Senate Bill
3 No. 197 entitled “An act relating to the procurement and distribution of
4 products containing perfluoroalkyl and polyfluoroalkyl substances and
5 monitoring adverse health conditions attributed to perfluoroalkyl and
6 polyfluoroalkyl substances” respectfully reports that it has considered the same
7 and recommends that the bill be amended by striking out all after the enacting
8 clause and inserting in lieu thereof the following:

9 * * * Products Containing PFAS * * *

10 Sec. 1. 18 V.S.A. chapter 35 is added to read:

11 CHAPTER 35. PRODUCTS CONTAINING PFAS

12 § 1711. DEFINITIONS

13 As used in this chapter:

14 (1) “Department” means the Department of Health.

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

18 (3) “Product” means an item manufactured, assembled, packaged, or
19 otherwise prepared for sale to consumers, including its product components.

20 (4) “Product component” means an identifiable component of a product
21 regardless of whether the manufacturer of the product is the manufacturer of

1 the component.

2 § 1712. EDUCATIONAL MATERIALS

3 (a) The Department shall provide information to the public, available
4 electronically on the Department’s website, and create public service
5 announcements describing the health consequences of exposure to PFAS,
6 including:

7 (1) the prevalence of PFAS in private and public drinking water;

8 (2) any U.S. Environmental Protection Agency guidelines on drinking
9 water;

10 (3) the availability of the Department’s test for detecting PFAS in
11 drinking water; and

12 (4) advice for reducing personal PFAS exposure.

13 (b) The Department shall provide information to health care providers,
14 available electronically on the Department’s website, describing the health
15 consequences of exposure to PFAS, symptoms of PFAS-exposure, diagnostic
16 tests related to PFAS exposure, and any other related guidance documents
17 produced by the U.S. Centers for Disease Control and Prevention’s Agency for
18 Toxic Substances and Disease Registry.

19 Sec. 2. 18 V.S.A. chapter 35 is amended to read:

20 CHAPTER 35. PRODUCTS CONTAINING PFAS

21 § 1711. DEFINITIONS

1 As used in this chapter:

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

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

5 (3) “Manufacturer” means any person, firm, association, partnership,
6 corporation, organization, joint venture, importer, or domestic distributor of a
7 product or product component. As used in this subdivision, “importer” means
8 the owner of the product or product component.

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

12 ~~(3)~~(5) “Product” means an item manufactured, assembled, packaged, or
13 otherwise prepared for sale to consumers, including its product components.

14 ~~(4)~~(6) “Product component” means an identifiable component of a
15 product regardless of whether the manufacturer of the product is the
16 manufacturer of the component.

17 * * *

18 § 1713. PROHIBITION ON THE SALE AND DISTRIBUTION OF
19 PRODUCTS CONTAINING PFAS

20 (a) A person shall not distribute, sell, offer for sale, or distribute in this
21 State any product to which one or more PFAS has been intentionally added

1 unless the Department has determined that the use of PFAS is a currently
2 unavoidable use.

3 (b) The Department shall maintain a list of products on its website that are
4 exempt from subsection (a) of this section due to its determination that the use
5 of one or more intentionally added PFAS constitutes a currently unavoidable
6 use.

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

8 § 1714. CERTIFICATE OF COMPLIANCE

9 The Attorney General may request a certificate of compliance from a
10 manufacturer of a product sold in Vermont. Within 30 days after receipt of the
11 Attorney General’s request for a certificate of compliance, the manufacturer
12 shall:

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

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

20 § 1715. RULEMAKING

21 Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt any rules

1 necessary for the implementation, administration, and enforcement of this
2 chapter.

3 § 1716. PENALTIES

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

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

11 Sec. 3. REPEALS

12 18 V.S.A. chapter 33B (PFAS in rugs, carpets, and aftermarket stain and
13 water resistant treatments) and 18 V.S.A. chapter 33C (PFAS in ski wax) are
14 repealed.

15 * * * Restricting PFAS in Pesticides * * *

16 Sec. 4. 6 V.S.A. §1101 is amended to read:

17 § 1101. DEFINITIONS

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

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

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

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

6 (4) “Economic poison” ~~shall have~~ has the meaning stated in subdivision
7 911(5) of this title.

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

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

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

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

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

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

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

6 Sec. 5. 6 V.S.A. § 1114 is added to read:

7 § 1114. PFAS IN PESTICIDES

8 (a)(1) A person shall not sell, offer for sale, use, or distribute in the State a
9 pesticide that has been adulterated in an amount exceeding 20 parts per trillion
10 by the following substances:

11 (A) perfluoroheptanoic acid (PFHpA);

12 (B) perfluorohexane sulfonic acid (PFHxS);

13 (C) perfluorononanoic acid (PFNA);

14 (D) perfluorooctane sulfonic acid (PFOS);

15 (E) perfluorooctanic acid (PFOA); and

16 (F) perfluorodecanoic acid (PFDA).

17 (2) A pesticide shall not contain a substance listed in this subsection as
18 an active, inactive, or inert ingredient.

19 (b) Pesticides that do not contain PFAS as an intentionally added ingredient
20 and that have been packaged within a fluorinated high-density polyethylene
21 container shall be tested for PFAS prior to sale, offer for sale, or distribution.

1 A pesticide containing PFAS due to chemicals leached from the container in an
2 amount exceeding 20 parts per trillion is prohibited from sale, offer for sale,
3 use, or distribution.

4 (c) Manufacturers and distributors of pesticides shall submit a confidential
5 statement of formula for each pesticide or pesticide product registered with the
6 State and an affidavit to the Secretary. The statement of formula and the
7 affidavit are exempt from public inspection and copying under the Public
8 Records Act and shall be kept confidential. The Public Records Act
9 exemptions created in this subsection shall not be subject to the provisions of
10 1 V.S.A. § 317(e) (repeal of Public Records Act exemptions).

11 (d) A manufacturer or distributor required to submit forms under
12 subsection (b) of this section shall submit the forms during the product
13 registration review or during reregistration pursuant to 6 V.S.A. § 918. The
14 affidavit shall state whether a pesticide has ever been stored, distributed, or
15 packaged in a fluorinated high-density polyethylene container and whether the
16 pesticide has been tested for PFAS.

17 (e) The Secretary shall specify the format for submission of the notice
18 required. Any notice submitted shall contain the following information:

19 (1) the name of the intentionally added chemicals in the pesticide
20 registered with the U.S. Environmental Protection Agency;

1 (2) a description of the product or product component containing PFAS,
2 including the brand name, the product model, and the universal product code
3 (UPC) if the product has such a code;

4 (3) the amount of the chemical contained in each unit of the product or
5 product component, reported by weight or parts per trillion as authorized by
6 the Secretary;

7 (4) the name and address of the manufacturer of the product and the
8 name, address, and telephone number of a contact person for the manufacturer;
9 and

10 (5) any other information the manufacturer deems relevant to the
11 appropriate use of the product.

12 * * * Effective Dates * * *

13 Sec. **6**. EFFECTIVE DATES

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

15 (1) Sec. 2 (products containing PFAS) and Sec. 3 (repeals) shall take
16 effect on July 1, 2030; and

17 (2) Secs. 6 and 7 (restricting PFAS in pesticides) shall take effect on
18 January 1, 2025.

19 and that after passage the title of the bill be amended to read: “An act
20 relating to restricting the sale and distribution of products containing
21 perfluoroalkyl and of polyfluoroalkyl substances”

1
2
3
4
5
6
7
8

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE