

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred Senate Bill  
3 No. 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 Senate concur  
7 in the House proposal of amendment with further proposal of amendment by  
8 striking out all after the enacting clause and inserting in lieu thereof the  
9 following:

10 \* \* \* Chemicals in Cosmetic and Menstrual Products \* \* \*

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

12 Subchapter 12. Chemicals in Cosmetic and Menstrual Products

13 § 2494a. DEFINITIONS

14 As used in this subchapter:

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” excludes a distributor or retailer, except when a  
11 consumer product is made or assembled outside the United States, in which  
12 case a “manufacturer” includes the importer or first domestic distributor of the  
13 consumer product.

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

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

21 (8) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a

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

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

6 § 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL  
7 PRODUCTS

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

12 (1) ortho-phthalates;

13 (2) PFAS;

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

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

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

17 (6) 1, 4-dioxane (CAS 123-91-1);

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

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

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

21 (10) asbestos;

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

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

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

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

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

10           (1) natural or synthetic ingredients;

11           (2) the manufacturing process;

12           (3) storage; or

13           (4) migration from packaging.

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

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

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

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

12           § 2494c. VIOLATIONS

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

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

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

20           § 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL  
21           PRODUCTS

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

5 \* \* \*

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

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

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

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

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

11 \* \* \*

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

16 \* \* \* PFAS in Consumer Products \* \* \*

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

18 Subchapter 12a. PFAS in Consumer Products

19 § 2494e. DEFINITIONS

20 As used in this subchapter:

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

1 mattress.

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

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

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

16 (B) Outdoor apparel.

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

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

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

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

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

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

21 (9) “Manufacturer” means any person engaged in the business of



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

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

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

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

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

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

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

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

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

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

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

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

21           (19) “Textile articles” means textile goods of a type customarily and

1 ordinarily used in households and businesses, and includes apparel,  
2 accessories, handbags, backpacks, draperies, shower curtains, furnishings,  
3 upholstery, bedding, towels, napkins, and table cloths. “Textile articles” does  
4 not include:

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

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

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

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

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

13 (F) rugs or carpets.

14 § 2494f. AFTERMARKET STAIN AND WATER-RESISTANT  
15 TREATMENTS

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

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

1     § 2494g. ARTIFICIAL TURF

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

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

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

8     § 2494h. COOKWARE

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

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

13     § 2494i. INCONTINENCY PROTECTION PRODUCT

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

17     § 2494j. JUVENILE PRODUCTS

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

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

1     § 2494k. RUGS AND CARPETS

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

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

6     § 2494l. SKI WAX

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

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

11    § 2494m. TEXTILES

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

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

16    § 2494n. CERTIFICATE OF COMPLIANCE

17          (a) The Attorney General may request a certificate of compliance from a  
18    manufacturer of a consumer product regulated under this subchapter. Within  
19    60 days after receipt of the Attorney General’s request for a certificate of  
20    compliance, the manufacturer shall:

21            (1) provide the Attorney General with a certificate attesting that the

1 manufacturer's product or products comply with the requirements of this  
2 subchapter; or

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

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

13 **§ 2494o. VIOLATIONS**

14 **(a) A violation of this subchapter is deemed to be a violation of section**  
15 **2453 of this title.**

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

1                                   \* \* \* Amendments to PFAS in Textiles \* \* \*

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

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

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

12                  (B) Outdoor apparel.

13                  (C) Outdoor apparel for severe wet conditions.

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

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

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

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

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

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

5 Subchapter 12b. PFAS in Firefighting Agents and Equipment

6 § 2494p. DEFINITIONS

7 As used in this subchapter:

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

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

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

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



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

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

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

11           § 2494q. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

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

15           § 2494r. RESTRICTION ON MANUFACTURE, SALE, AND

16                   DISTRIBUTION; EXCEPTIONS

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

20           (b) A person operating a terminal who seeks to purchase class B  
21           firefighting foam containing intentionally added PFAS for the purpose of

1 fighting emergency class B fires may apply to the Department of  
2 Environmental Conservation for a temporary exemption from the restrictions  
3 on the manufacture, sale, offer for sale, or distribution of class B firefighting  
4 foam for use at a terminal. An exemption shall not exceed one year. The  
5 Department of Environmental Conservation, in consultation with the  
6 Department of Health, may grant an exemption under this subsection if the  
7 applicant provides:

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

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

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

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

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

19 (4) an explanation of how:

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

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

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

7           § 2494s. SALE OF PERSONAL PROTECTIVE EQUIPMENT

8                   CONTAINING PFAS

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

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

18           § 2494t. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

19           (a) A manufacturer of class B firefighting foam containing intentionally  
20           added PFAS shall provide written notice to persons that sell the manufacturer's

1 products in this State about the restrictions imposed by this subchapter not less  
2 than one year prior to the effective date of the restrictions.

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

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

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

13 § 2494u. CERTIFICATE OF COMPLIANCE

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

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

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

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

11           § 2494v. VIOLATIONS

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

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

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

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

20                           Subchapter 12c. Chemicals of Concern in Food Packaging

1     § 2494<sup>w</sup>. DEFINITIONS

2             As used in this subchapter:

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

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

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

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

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

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

19            (7) “Packaging component” means an individual assembled part of a  
20            package, such as any interior or exterior blocking, bracing, cushioning,

1 weatherproofing, exterior strapping, coatings, closures, inks, and labels, and  
2 disposable gloves used in commercial or institutional food service.

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

6 § 2494x. FOOD PACKAGING

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

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

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

1 comparable cost and that the safer alternative performs as well as or better than  
2 bisphenols in a specific application of bisphenols to a food package or the  
3 packaging component of a food package.

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

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

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

15 § 2494y. CERTIFICATE OF COMPLIANCE

16 (a) The Attorney General may request a certificate of compliance from a  
17 manufacturer of food packaging. Within 60 days after receipt of the Attorney  
18 General's request for a certificate 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 subchapter; or



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

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

11           § 2494z. VIOLATIONS

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

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

18                           \* \* \* Engagement and Implementation Plans \* \* \*

19           Sec. 8. COMMUNITY ENGAGEMENT PLAN

20           (a) On or before July 1, 2025, the Department of Health shall develop and  
21           submit a community engagement plan to the Senate Committee on Health and

1 Welfare and to the House Committee on Human Services related to the  
2 enactment of 9 V.S.A. chapter 63, subchapter 12. The community engagement  
3 plan shall:

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

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

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

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

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

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

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

6        Sec. 9. IMPLEMENTATION PLAN; CONSUMER PRODUCTS

7                    CONTAINING PFAS

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

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

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

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

21                (4) describe which agency or department is responsible for

1 administration of the proposed program, including what additional staff,  
2 information technology changes, and other resources, if any, are necessary to  
3 implement the program;

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

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

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

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

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

1 Supplement Health and Education Act, is appropriately regulated under 9  
2 V.S.A. chapter 63, subchapters 12–12c.

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

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

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

13 \* \* \* Repeal \* \* \*

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

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

1 January 1, 2026.

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

3 Sec. 11. COMPLIANCE NOTIFICATION

4 If, upon a showing by a manufacturer, the Office of the Attorney General  
5 determines that it is not feasible to produce a particular consumer product as  
6 required by this act on the effective date listed in Sec. 12 (effective dates), the  
7 Attorney General may postpone the compliance date for that product for up to  
8 one year. If the Attorney General postpones a compliance date pursuant to this  
9 section, the Office of the Attorney General shall post notification of the  
10 postponement on its website.

11 \* \* \* Effective Dates \* \* \*

12 Sec. 12. EFFECTIVE DATES

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

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

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

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

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

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11           (Committee vote: \_\_\_\_\_)

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Senator \_\_\_\_\_

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FOR THE COMMITTEE