

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 bill be
7 amended by striking out all after the enacting clause and inserting in lieu
8 thereof the following:

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

10 Sec. 1. 18 V.S.A. chapter 36 is added to read:

11 CHAPTER 36. CHEMICALS IN COSMETIC AND MENSTRUAL
12 PRODUCTS

13 § 1721. 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, firm, association, partnership,
9 corporation, organization, joint venture, importer, or domestic distributor of a
10 cosmetic or menstrual product. As used in this subdivision, “importer” means
11 the owner of the product.

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

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

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

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

4 § 1722. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL
5 PRODUCTS

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

10 (1) Ortho-phthalates;

11 (2) PFAS;

12 (3) Formaldehyde (CAS 50-00-0) and formaldehyde releasing agents;

13 (4) Methylene glycol (CAS 463-57-0);

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

15 (6) 1, 4-dioxane (CAS 123-91-1);

16 (7) Isopropylparaben (CAS 4191-73-5);

17 (8) Isobutylparaben (CAS 4247-02-3);

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

19 (10) Asbestos;

20 (11) Aluminum salts;

21 (12) Triclosan (CAS 3380-34-5);

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

2 (14) o-phenylenediamine and its salts (CAS 95-54-5).

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

8 (1) natural or synthetic ingredients;

9 (2) the manufacturing process;

10 (3) storage; or

11 (4) migration from packaging.

12 (c) The manufacturer of a cosmetic or menstrual product containing 1,4
13 dioxane, lead, lead compounds, or any combination of these chemicals may
14 apply to the Department of Health for a one-year waiver from subsection (a) of
15 this section. The Department shall only approve a waiver application in which
16 the manufacturer submits evidence that the manufacturer has taken steps to
17 reduce the presence of 1,4 dioxane, lead, lead compounds, or any combination
18 of these chemicals in the cosmetic or menstrual product and is still unable to
19 comply with subsection (a) of this section. The Department shall not approve
20 more than two one-year waiver applications for a particular product.

21 § 1723. PENALTIES

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

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

8 Sec. 2. COMMUNITY ENGAGEMENT PLAN

9 On or before December 1, 2024, the Department of Health shall develop,
10 adopt, and submit a community engagement plan to the Senate Committee on
11 Health and Welfare and to the House Committee on Human Services related to
12 the enactment of 18 V.S.A. chapter 36. The community engagement plan
13 shall:

14 (1) identify cosmetic products marketed to individuals who are Black,
15 Indigenous, or Persons of Color that contain potentially harmful ingredients;

16 (2) direct outreach to provide culturally appropriate education
17 concerning harmful ingredients used in cultural and other cosmetic products,
18 prioritizing engagement with vulnerable populations;

19 (3) make recommendations for priority chemicals or products to be
20 regulated; and

1 (4) include methods for outreach and communication with those who
2 face barriers to participation, such as language.

3 * * * PFAS in Textiles * * *

4 Sec. 3. 18 V.S.A. chapter 33C is amended to read:

5 CHAPTER 33C. PFAS IN SKI WAX AND TEXTILES

6 § 1691. DEFINITIONS

7 As used in this chapter:

8 (1) “Apparel” means any of the following:

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

17 (B) Outdoor apparel.

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

19 ~~(2)~~(3) “Intentionally added” means the addition of a chemical in a
20 product that serves an intended function in the product component.

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

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

12 ~~(3)~~(6) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” has
13 the same meaning as in section 1661 of this title.

14 (7) “Personal protective equipment” has the same meaning as in section
15 1661 of this title.

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

18 (A) PFAS that a manufacturer has intentionally added to a product
19 and that have a functional or technical effect in the product, including PFAS
20 components of intentionally added chemicals and PFAS that are intentional

1 breakdown products of an added chemical that also have a functional or
2 technical effect in the product; or

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

5 ~~(4)~~(9) “Ski wax” means a lubricant applied to the bottom of snow
6 runners, including skis and snowboards, to improve their grip and glide
7 properties.

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

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

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

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

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

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

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

5 § 1692. SKI WAX

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

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

11 § 1692a. TEXTILES

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 a textile or
14 textile article to which regulated 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 § 1693. CERTIFICATE OF COMPLIANCE

18 The Attorney General may request a certificate of compliance from a
19 manufacturer of ski wax, textiles, or textile articles. Within 30 days after
20 receipt of the Attorney General’s request for a certificate of compliance, the
21 manufacturer shall:

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

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

8 § 1694. RULEMAKING

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

12 § 1695. PENALTIES

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

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

20 Sec. 3a. 18 V.S.A. § 1691(8) is amended to read:

1 (8) “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~~ 50 parts per million, as measured in total organic fluorine.

10 Sec. 3b. 18 V.S.A. § 1691 is amended to read:

11 § 1691. DEFINITIONS

12 As used in this chapter:

13 (1) “Apparel” means any of the following:

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

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- (B) Outdoor apparel.
- (C) Outdoor apparel for severe wet conditions.

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* * * PFAS in Turf Fields * * *

Sec. 4. 18 V.S.A. chapter 33D is added to read:

CHAPTER 33D. PFAS IN ATHLETIC TURF FIELDS

§ 1696. DEFINITIONS

As used in this chapter:

(1) “Athletic turf field” means an artificial or synthetic recreation area used for competitive outdoor sports that is owned or operated by a public or private postsecondary education institution that operates in Vermont.

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

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

§ 1697. ATHLETIC TURF FIELDS

A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State an athletic turf field containing PFAS. This section shall not apply to the sale of athletic turf fields that have already been approved by voters prior to July 1, 2023.

§ 1698. CERTIFICATE OF COMPLIANCE

1 The Attorney General may request a certificate of compliance from a
2 manufacturer of an athletic turf field. Within 30 days after receipt of the
3 Attorney General’s request for a certificate of compliance, the manufacturer
4 shall:

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

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

12 § 1699. RULEMAKING

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

16 § 1699a. PENALTIES

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

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

3 Sec. 5. REPORT; MANAGEMENT OF PFAS ACROSS PRODUCT
4 CATEGORIES

5 On or before November 15, 2023, the Department of Environmental
6 Conservation, in consultation with the Department of Health, shall submit a
7 report to the House Committee on Human Services and the Senate Committee
8 on Health and Welfare containing recommendations on how to more
9 comprehensively manage perfluoroalkyl and polyfluoroalkyl substances and
10 other toxic chemicals by chemical class across a range of product categories.

11 * * * Effective Dates * * *

12 Sec. 6. EFFECTIVE DATES

13 This act shall take effect on July 1, 2023, except that:

14 (1) Sec. 1 (chemicals in cosmetic and menstrual products) and Sec. 3
15 (PFAS in ski wax and textiles) shall take effect on January 1, 2025.

16 (2) Sec. 3a (18 V.S.A. § 1691(8)) shall take effect on July 1, 2027.

17 (3) Sec. 3b (definitions) shall take effect on July 1, 2028.

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2 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE