



March 15, 2023

Hello. For the record, I'm Kelly Ault, Executive Director of the Vermont Outdoor Business Alliance (or VOBA). Chair Lyons, Vice Chair Weeks, and committee members, I appreciate the opportunity to speak to you today in support of S.25 on behalf of the outdoor businesses that we represent. VOBA is a statewide nonprofit organization established in 2018 representing over 100 outdoor businesses dedicated to strengthening Vermont's outdoor economy. Our work in networking, education and policy focuses on advancing solutions to the challenges of business and workforce development, as well as giving back to our local communities and supporting equitable access to the outdoors.

Overall, the U.S. and VT textile and apparel industry is committed to transitioning to non-fluorinated materials and has been making significant investments in new material research and development, supply chain adjustments, and corporate resources to remove intentionally added PFAS from their products.

We believe the changes we recommend today will strengthen the ability of Vermont's manufacturers and retailers to comply with new requirements that are *predictable* and *achievable while preventing unintended negative economic consequences*, especially for our small businesses.

The changes to section 3 of S.25 would provide:

1. clarity in definitions and requirements;
2. consistency with regulations in other states, specifically CA's AB 1817; and,
3. adequate timelines:
 1. For manufacturers to accommodate lengthy production cycles, which can be upwards of 36 months, prevent supply chain disruption, and avoid the introduction of regrettable alternatives.
 2. For retailers to ensure the ability to sell out of existing inventory which would minimize economic hardship on our local outdoor stores.

Our letter was jointly submitted with other national outdoor and apparel associations - including the American Apparel and Footwear Association of which you will hear from Chelsea

after my testimony - and in consensus with Vermont businesses. Together, we respectfully request several changes which I'll review and of which are also outlined in our submitted letter.

The first recommendation is to expand the definition of "intentionally added" to mean the addition of PFAS substances that have a *functional or technical effect in the product*, which would distinguish it from environmental contamination.

Additionally, a clear delineation of what is considered "intentionally added" is a testing threshold level of 100 parts per million of total organic fluorine, which mirrors the initial requirement in the CA law as being reliable, and provides a science-based approach.

§ 1691. DEFINITIONS

"Intentionally added" means **the addition of a perfluoroalkyl and polyfluoroalkyl substances or PFAS in a product**

(A) that have a functional or technical effect in the product

(B) are present in the product at or above a threshold of 100 parts per million total organic fluorine

The second recommendation is to use a widely accepted definition for outdoor apparel for severe wet conditions, meaning...

(5) "Outdoor apparel for severe wet conditions" means outdoor apparel that are extreme and extended use products designed for outdoor sports experts for applications that provide protection against extended exposure to extreme rain conditions or against extended immersion in water or wet conditions, such as from snow, in order to protect the health and safety of the user and that are not marketed for general consumer use.

I'll reference this category of apparel again in regards to a recommended extended phase - out with an effective date Jan 1, 2028.

In describing the prohibition of textiles in 1692a, we recommend replacing "in any amount" with *only applying to products purchased by a brand or retailer after the effective date* for sale to an end consumer.

§ 1692a. TEXTILES

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a textile or textile article to which PFAS have been intentionally added ~~in any amount~~ that were manufactured after the effective date.

A recommendation regarding the certificate of compliance is to increase the 30 day response window to 60 so manufacturers have adequate time to provide the requested information by the Attorney General. This would be especially important if testing is involved, as it can be challenging to find a testing lab, and more time for

§ 1693. CERTIFICATE OF COMPLIANCE

The Attorney General may request a certificate of compliance from a manufacturer of ski wax, textiles, or textile articles. Within **60** days after receipt of the Attorney General's request for a certificate of compliance, the manufacturer shall:

Regarding rulemaking, we proposed 12 months between the adoption of rules and section 3 going into effect. This gap ensures that companies can plan ahead, knowing what is expected of them, and therefore can be in compliance with the law.

§ 1694. RULEMAKING

Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt any rules necessary for the implementation, administration, and enforcement of this chapter **at least 12 months before this Section goes into effect. If rulemaking is delayed, this section shall go into effect 12 months after final rules are promulgated.**

Finally, we recommend changes to the effective dates, extending Section 3 for ski wax, apparel, and outdoor apparel to January 1, 2026. This is important given complex production cycles and what is involved in switching to alternative chemistry and allows for both large and small brands to be ready to comply with the law. Additionally, we recommend - similar to CA where timelines were agreed upon by both environmental organizations and private sector industry - that PFAS in outdoor apparel for severe wet conditions is banned starting in Jan. 1, 2028.

Sec. 5. EFFECTIVE DATES

This act shall take effect on July 1, 2023, **except for Sec. 1 (chemicals in 11 cosmetic and menstrual products) and Sec. 3 (PFAS in ski wax and textiles). Sec. 1 shall take effect on January 1, 2026. Sec. 3 will take effect for apparel, outdoor apparel, and ski wax on January 1, 2026. Sec. 3 will take effect for outdoor apparel for severe wet conditions on January 1, 2028.**

We appreciate the committee's consideration of these proposed changes recommended by the outdoor industry, which is significant and growing for our state. According to the [US Bureau of Economic Analysis](#), spending on activities from snow sports to fishing, hunting, camping, hiking, boating, and bicycling contributed \$1.54 billion to Vermont's economy in 2021, ranking our

state the 3rd highest in the nation for contributions to state gross domestic product (GDP). These numbers include \$159 million in manufacturing and \$310 million for retail, demonstrating vibrant local economies in communities across the Green Mountain State.

This legislation will have consequential impacts on our businesses and their employees that live in our communities. We value your thoughtful consideration of S.25 and these changes.

I'm happy to answer any questions.