

1 H.238

2 Introduced by Representatives Sheldon of Middlebury and Chapin of East

3 Montpelier

4 Referred to Committee on

5 Date:

6 Subject: Conservation and development; toxic substances; consumer products;

7 perfluoroalkyl and polyfluoroalkyl substances

8 Statement of purpose of bill as introduced: This bill proposes to phase out and
9 ultimately prohibit the manufacture, sale, or distribution for sale of consumer
10 products containing added perfluoroalkyl and polyfluoroalkyl substances
11 (PFAS). The bill would authorize both the Secretary of Natural Resources and
12 the Attorney General to enforce the requirements for consumer products
13 containing PFAS, with the Attorney General enforcing under consumer
14 protection laws. In addition, a consumer harmed by a consumer product
15 containing PFAS would be authorized to bring a consumer protection action
16 for damages.

17 An act relating to the phaseout of consumer products containing added
18 perfluoroalkyl and polyfluoroalkyl substances

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 ~~Sec. 1, 10 V.S.A., chapter 169 is added to read:~~

3 CHAPTER 169. PHASEOUT OF PFAS-ADDED CONSUMER PRODUCTS

4 § 7601. DEFINITIONS

5 As used in this chapter:

6 (1) “Adult mattress” means a mattress other than a crib or toddler
7 mattress.

8 (2) “Aftermarket stain and water-resistant treatments” means treatments
9 for textile and leather consumer products used in residential settings for stain,
10 oil, and water resistance, but excludes products marketed or sold exclusively
11 for use at industrial facilities during the manufacture of a carpet, rug, clothing,
12 or shoe.

13 (3) “Alternative” means a substitute process, product, material,
14 chemical, strategy, or combination of these that has been evaluated and serves
15 a functionally equivalent purpose to PFAS in a product that presents a lesser
16 hazard to human health and the environment than use of PFAS in the product.

17 (4) “Apparel” means any of the following:

18 (A) Clothing items intended for regular wear or formal occasions,
19 including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits,
20 costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school
21 uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear,

1 ~~formal wear, oncsies, hibs, reusable diapers, footwear, and everyday uniforms~~
2 for workwear. Clothing items intended for regular wear or formal occasions
3 do not include clothing items for exclusive use by the U.S. Armed Forces and
4 personal protective equipment.

5 (B) Outdoor apparel.

6 (5) “Aqueous film forming foam” or “AFFF” means a fire suppressant
7 used to extinguish flammable liquid fires such as fuel fires.

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

10 (7) “Carpet or rug” means a fabric product marketed or intended for use
11 as a floor covering.

12 (8) “Cleaning product” means a compound intended for routine
13 cleaning, including general purpose cleaners, bathroom cleaners, glass
14 cleaners, carpet cleaners, floor care products, and hand soaps. “Cleaning
15 product” does not mean an antimicrobial pesticide.

16 (9) “Complex durable goods” means a consumer product that is a
17 manufactured good composed of 100 or more manufactured components, with
18 an intended useful life of five or more years, where the product is typically not
19 consumed, destroyed, or discarded after a single use. This includes
20 replacement parts for complex durable goods not subject to a phaseout under
21 this chapter. “Complex durable goods” does not include food.

1 ~~(10) “Consumer product” means any tangible personal property that is~~
2 ~~distributed in commerce and that is used for personal, family, or household~~
3 ~~purposes. “Consumer products” includes product categories that are normally~~
4 ~~used by households but sold to businesses, such as commercial carpets or~~
5 ~~commercial floor waxes. Beginning on January 1, 2033, “consumer product”~~
6 ~~includes complex durable goods.~~

7 (11) “Cookware” means durable houseware items used to prepare,
8 dispense, or store food, foodstuffs, or beverages and that are intended for
9 direct food contact, including pots, pans, skillets, grills, baking sheets, baking
10 molds, trays, bowls, and cooking utensils.

11 (12) “Cosmetic product” means an article or a component of an article
12 intended to be rubbed, poured, sprinkled, or sprayed on; introduced into; or
13 otherwise applied to the human body or any part thereof for cleansing,
14 promoting attractiveness, or improving or altering appearance, including those
15 intended for use by professionals. “Cosmetic product” does not mean soap,
16 dietary supplements, or food and drugs approved by the U.S. Food and Drug
17 Administration.

18 (13) “Dental floss” means a string-like device made of cotton or other
19 fibers intended to remove plaque and food particles from between the teeth to
20 reduce tooth decay. The fibers of the device may be coated with wax for
21 easier use.

1 ~~(14) "Fluorine treated containers" means a fluorinated treated plastic~~
2 ~~container or another fluorinated container listed by the Secretary by rule.~~

3 ~~(15) "Food" has the same meaning as defined in 18 V.S.A. § 4051.~~

4 ~~(16) "Food packaging and containers" means containers applied to or~~
5 ~~providing a means to market, protect, handle, deliver, serve, contain, or store a~~
6 ~~food or beverage. "Food packaging and containers" includes:~~

7 ~~(A) a unit package and an intermediate package;~~

8 ~~(B) unsealed receptacles, such as carrying cases, crates, cups, plates,~~
9 ~~bowls, pails, rigid foil and other trays, wrappers and wrapping films, bags, and~~
10 ~~tubs; and~~

11 ~~(C) an individual assembled part of a food package, such as any~~
12 ~~interior or exterior blocking, bracing, cushioning, weatherproofing, exterior~~
13 ~~strapping, coatings, closures, inks, and labels.~~

14 ~~(17) "Incontinency protection product" means a disposable, absorbent~~
15 ~~hygiene product designed to absorb bodily waste for use by individuals 12~~
16 ~~years of age and older.~~

17 ~~(18) "Intentionally added" means:~~

18 ~~(A) when a person manufacturing a product or product component~~
19 ~~knows or can reasonably ascertain the final product or product component~~
20 ~~could contain PFAS, including because.~~

1 ~~(i) PFAS or PFAS precursors are added to the product or product~~
2 ~~component;~~

3 ~~(ii) PFAS or PFAS precursors are used in the manufacturing~~
4 ~~process of the product or product component; or~~

5 ~~(iii) PFAS are present in the final product as a byproduct or~~
6 ~~impurity; or~~

7 ~~(B) the product or a product component contains PFAS above~~
8 ~~thresholds established by the Secretary.~~

9 ~~(19) “Juvenile product” means a product designed or marketed for use~~
10 ~~by infants and children under 12 years of age:~~

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

18 ~~(B) excluding a children’s electronic product, such as a personal~~
19 ~~computer, audio and video equipment, calculator, wireless phone, game~~
20 ~~console, handheld device incorporating a video screen, or any associated~~

1 ~~peripheral such as a mouse, keyboard, power supply unit, or power cord; a~~
2 medical device; or an adult mattress.

3 (20) “Known or reasonably ascertainable” means all information in a
4 person’s possession or control, plus all information that a reasonable person
5 similarly situated might be expected to possess, control, or know.

6 (21) “Manufacturer” means any person engaged in the business of
7 making or assembling a consumer product for sale to or use by consumers.
8 “Manufacturer” excludes a distributor or retailer, except when a consumer
9 product is made or assembled outside the United States, in which case a
10 “manufacturer” includes the importer or first domestic distributor of the
11 consumer product.

12 (22) “Medical device” has the same meaning given to “device” in 21
13 U.S.C. § 321.

14 (23) “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 (24) “Outdoor apparel” means clothing items intended primarily for
19 outdoor activities, including hiking, camping, skiing, climbing, bicycling, and
20 fishing.

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

4 ~~(26) “Personal protective equipment” is clothing designed, intended, or~~
5 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 ~~(27) “Pesticide” has the same meaning as defined in 6 V.S.A. § 1101.~~

9 ~~(28) “PFAS-added consumer product” means a consumer product that~~
10 was manufactured after the effective date of this chapter where PFAS were
11 intentionally added to that product or a component of the product.

12 ~~(29) “Product component” means a component of a product, regardless~~
13 of whether the manufacturer of the product is the manufacturer of the
14 component.

15 ~~(30) “Retailer” means a person who sells a PFAS-added product in the~~
16 State through any means, including a sales outlet, a catalogue, the telephone,
17 the internet, or any electronic means. “Retailer” does not mean a person who
18 both manufactures and sells at retail a consumer product with respect to the
19 product that they manufacture.

20 ~~(31) “Secretary” means the Secretary of Natural Resources.~~

1 (32) “Ski wax” means a lubricant applied to the bottom of snow
2 runners, including skis and snowboards, to improve their grip and glide
3 properties.

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

9 (34) “Textile articles” means textile goods of a type customarily and
10 ordinarily used in households and businesses and includes apparel, accessories,
11 handbags, backpacks, draperies, shower curtains, furnishings, upholstery,
12 bedding, towels, napkins, and tablecloths. “Textile articles” does not include:

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

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

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

17 (D) filtration media and filter products used in industrial
18 applications, including chemical or pharmaceutical manufacturing and
19 environmental control technologies;

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

21 (F) rugs or carpets.

1 ~~(35) “Upholstered furniture” means any article of furniture that is~~
2 designed for sitting, resting, or reclining and is wholly or partially stuffed with
3 filling material.

4 § 7602. EXEMPTIONS

5 The following are exempt from the requirements of this chapter:

6 (1) A product for which federal law governs the presence of PFAS in
7 the product in a manner that preempts state authority.

8 (2) Products made with at least 50 percent recycled content, excluding
9 food packaging and containers and PFAS solutions. The Secretary may adopt
10 alternate minimum recycled content exemptions by rule.

11 (3) Products manufactured prior to the phaseout imposed by section
12 7604 of this title.

13 (4) Drugs, medical devices, biologics, or diagnostics approved or
14 authorized by the federal Food and Drug Administration or the U.S.
15 Department of Agriculture or otherwise subject to regulation under the Federal
16 Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. § 301 et seq. This
17 exemption shall not apply to products phased out pursuant to subdivision
18 7604(a)(1) of this title or for which the Secretary adopts a rule phasing out a
19 PFAS-added consumer product.

20 (5) Pesticides registered or authorized for use under the Federal
21 insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. Chapter 6,

1 ~~subchapter II (environmental pest control) and by the Vermont Agency of~~
2 ~~Agriculture, Food and Markets under 6. V.S.A. Chapter 81, as amended.~~

3 ~~(C) Replacement parts for products manufactured prior to the phaseout~~
4 ~~imposed by section 7604 of this title.~~

5 ~~§ 7603. INTERJURISDICTION CLEARINGHOUSE~~

6 ~~(a) The Secretary is authorized to participate in the establishment and~~
7 ~~implementation of a multijurisdiction clearinghouse to assist in carrying out~~
8 ~~the requirements of this chapter and to help coordinate applications and~~
9 ~~reviews of the manufacturer obligations under this chapter. The clearinghouse~~
10 ~~may also maintain a database or other collection of relevant information,~~
11 ~~including all products containing PFAS, including PFAS-added products;~~
12 ~~applications for designation as a currently unavoidable use; and exemptions~~
13 ~~granted by the participating jurisdictions.~~

14 ~~(b) Public disclosure of information submitted to the Secretary pursuant to~~
15 ~~this section shall be governed by the requirements of 1 V.S.A., chapter 5,~~
16 ~~subchapter 3. Notwithstanding whether information submitted to the Secretary~~
17 ~~pursuant to this section is exempt from public disclosure under 1 V.S.A.~~
18 ~~§ 317(c), the Secretary may provide the clearinghouse with copies of such~~
19 ~~information, provided:~~

20 ~~(1) the Secretary provides notice of this section to the person submitting~~
21 ~~the information, and~~

1 ~~(2) all member jurisdictions of the clearinghouse protect such~~
2 information from disclosure by law, including as provided in subsection (d) of
3 this section.

4 (c) The Secretary may publish analyses or summaries of such information,
5 provided that:

6 (1) the analyses or summaries do not reveal any information that is
7 confidential under 1 V.S.A. § 317(c); and

8 (2) if relying on confidential information obtained from another
9 jurisdiction, that jurisdiction does not prohibit disclosure of such analyses or
10 summaries.

11 (d) Communications and information shared among or between members
12 of the clearinghouse, including information maintained by the clearinghouse,
13 shall not lose any otherwise applicable protection from disclosure by virtue of
14 being shared within the clearinghouse.

15 § 7604. PHASEOUTS ON THE SALE OF CERTAIN PFAS-ADDED

16 PRODUCTS

17 (a) Product phaseouts. A manufacturer shall not manufacture, sell, or
18 distribute for sale in the State the following PFAS-added consumer products:

19 (1) AFFF;

20 (2) aftermarket stain and water-resistant treatments;

21 (3) artificial turf;

- 1 ~~(4) carpets and rugs;~~
- 2 ~~(5) cleaning products;~~
- 3 ~~(6) cookware;~~
- 4 ~~(7) cosmetic products;~~
- 5 ~~(8) dental floss;~~
- 6 ~~(9) fluorine treated containers;~~
- 7 ~~(10) food packaging and containers;~~
- 8 ~~(11) incontinency protection products;~~
- 9 ~~(12) juvenile products;~~
- 10 ~~(13) menstrual products;~~
- 11 ~~(14) ski wax; and~~
- 12 ~~(15) upholstered furniture.~~
- 13 (b) Apparel textiles and textile articles. A manufacturer shall not
- 14 manufacture, sell, or distribute for sale in the State apparel textiles or textile
- 15 articles with concentrations of total organic fluorine greater than 50 parts per
- 16 million.
- 17 (c) Firefighting; personal protective equipment.
- 18 (1) A manufacturer or other person that sells firefighting equipment to
- 19 any person, municipality, or State agency in this State shall provide written
- 20 notice to the purchaser at the time of sale, citing to this chapter, if the personal
- 21 protective equipment contains PFAS. The written notice shall include a

1 ~~statement that the personal protective equipment contains PFAS and the reason~~
2 PFAS are added to the equipment.

3 (2) The manufacturer or person selling personal protective equipment
4 and the purchaser of the personal protective equipment shall retain the notice
5 for at least three years from the date of the transaction.

6 § 7605. CERTIFICATE OF COMPLIANCE

7 (a) The Attorney General or Secretary may request a certificate of
8 compliance from a manufacturer. Within 60 days after receipt of the request
9 for a certificate of compliance, the manufacturer shall:

10 (1) Provide a certificate to the requestor attesting that the
11 manufacturer's product or products comply with the requirements of this
12 chapter. Upon request, the manufacturer shall document the steps taken to
13 reasonably ascertain whether PFAS were present in a product or product
14 component.

15 (2) Notify persons who are selling a product of the manufacturer's in
16 this State that the product does not comply with this chapter and submit to the
17 requestor a list of the names and addresses of those persons notified.

18 (b) A manufacturer required to submit a certificate of compliance pursuant
19 to this section may rely upon a certification under section 7606 of this title
20 provided to the manufacturer by a supplier for the purpose of determining

1 ~~whether the manufacturer's product or products comply with the requirements~~
2 ~~of this chapter.~~

3 ~~(c) A certificate of compliance shall be in a form prescribed by the~~
4 ~~Secretary.~~

5 § 7606. MANUFACTURER CERTIFICATION; RIGHT OF ACTION

6 ~~(a) A manufacturer may request a certification from a supplier of an input~~
7 ~~into a product that is manufactured, sold, or distributed in the State of~~
8 ~~Vermont. That certification may include the following:~~

9 ~~(1) whether PFAS were intentionally added to the product or product~~
10 ~~component;~~

11 ~~(2) whether a commercial chemical product contains PFAS;~~

12 ~~(3) how PFAS were used in the development of the product or product~~
13 ~~component; and~~

14 ~~(4) any additional information reasonably necessary for the~~
15 ~~manufacturer to ensure compliance with this chapter.~~

16 ~~(b) A supplier shall have 60 days from the date the manufacturer sends the~~
17 ~~request for a certification to respond to the request. The manufacturer and~~
18 ~~supplier may agree to an extension of time in writing. A supplier who needs to~~
19 ~~send a request for a certification to their suppliers shall respond on or before~~
20 ~~180 days from the date that the original request was sent, unless otherwise~~
21 ~~agreed to with the original requestor in writing.~~

1 ~~(c) Any supplier providing a certification under this section may require~~
2 the recipient to agree not to disclose information, except to the State of
3 Vermont, that is confidential under 1 V.S.A. § 317(c).

4 (d) A manufacturer may sue a supplier for failure to provide a certificate
5 under this section. A supplier may be liable for actual and consequential
6 damages as a result of its failure to provide a certificate under this section. A
7 manufacturer who prevails in a suit under this section shall be entitled to
8 reasonable attorney's fees.

9 (e) A supplier's failure to comply with this section is deemed to be a
10 violation of 9 V.S.A. § 2453.

11 § 7607. RULEMAKING

12 The Secretary may adopt rules to implement this chapter.

13 § 7608. ENFORCEMENT

14 In addition to the enforcement authority under chapters 201 and 211 of this
15 title, a violation of this chapter is deemed to be a violation of 9 V.S.A. § 2453.

16 Sec. 2. 10 V.S.A. § 8003 is amended to read:

17 § 8003. APPLICABILITY

18 (a) The Secretary may take action under this chapter to enforce the
19 following statutes and rules, permits, assurances, or orders implementing the
20 following statutes, and the Board may take such action with respect to
21 subdivision (10) of this subsection.

1 * * *

2 (32) 10 V.S.A. chapter 164B, relating to collection and management of
3 covered household hazardous products; and

4 (33) 10 V.S.A. chapter 24A relating to the Climate Superfund Cost
5 Recovery Program; and

6 (34) 10 V.S.A. chapter 169, relating to the phaseout of PFAS-added
7 consumer products.

8 * * *

9 Sec. 3. 10 V.S.A. § 8503 is amended to read:

10 § 8503. APPLICABILITY

11 (a) This chapter shall govern all appeals of an act or decision of the
12 Secretary, excluding enforcement actions under chapters 201 and 211 of this
13 title and rulemaking, under the following authorities and under the rules
14 adopted under those authorities:

15 (1) The following provisions of this title:

16 * * *

17 (V) chapter 124 (trade in covered animal parts or products); and

18 (W) chapter 164B (collection and management of covered household
19 hazardous products); and

20 (X) chapter 169 (phaseout of PFAS-added consumer products).

21 * * *

1 ~~Sec. 4-9 VS.A. § 2494b is amended to read:~~

2 § 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL
3 PRODUCTS

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

- 8 (1) ortho-phthalates;
- 9 (2) PFAS; [Repealed.]
- 10 (3) formaldehyde (CAS 50-00-0);
- 11 (4) methylene glycol (CAS 463-37-0);
- 12 (5) mercury and mercury compounds (CAS 7439-97-6);
- 13 (6) 1, 4-dioxane (CAS 123-91-1);
- 14 (7) isopropylparaben (CAS 4191-73-5);
- 15 (8) isobutylparaben (CAS 4247-02-3);
- 16 (9) lead and lead compounds (CAS 7439-92-1);
- 17 (10) asbestos;
- 18 (11) triclosan (CAS 3380-34-5);
- 19 (12) m-phenylenediamine and its salts (CAS 108-42-5);
- 20 (13) o-phenylenediamine and its salts (CAS 95-54-5); and
- 21 ~~(14) quaternium-15 (CAS 51229-78-8).~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

~~Sec. 5. 9 V.S.A. chapter 63, subchapter 12C is amended to read:~~

~~Subchapter 12C. Chemicals of Concern in Food Packaging~~

~~§ 2494w. DEFINITIONS~~

~~As used in this subchapter:~~

~~* * *~~

~~(8) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom. [Repealed.]~~

~~§ 2494x. FOOD PACKAGING~~

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

~~* * *~~

~~Sec. 6. REPEAL~~

~~9 V.S.A. chapter 63, subchapter 12a (PFAS in consumer products) and subchapter 12b (PFAS in firefighting agents and equipment) are repealed.~~

~~Sec. 7. REPORTS~~

~~(a) On or before January 15, 2032, the Secretary of Natural Resources shall provide a recommendation to the House Committees on Human Services and on Environment and Energy and the Senate Committees on Health and Welfare~~

1 ~~and on Natural Resources and Energy on how to address PFAS in complex~~
2 ~~durable goods.~~

3 ~~(b) On or before January 15, 2033, the Secretary of Agriculture, Food and~~
4 ~~Markets shall provide a recommendation to the House Committees on Human~~
5 ~~Services and on Environment and Energy and the Senate Committees on~~
6 ~~Health and Welfare and on Natural Resources and Energy on how to address~~
7 ~~PFAS in food.~~

8 Sec. 8. EFFECTIVE DATES

9 ~~(a) This act shall take effect on July 1, 2028.~~

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

Subchapter 12A. PFAS in Consumer Products

§ 2494e. DEFINITIONS

As used in this subchapter:

(1) "Adult mattress" means a mattress other than a crib or toddler mattress.

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

(3) "Apparel" means any of the following:

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

(B) Outdoor apparel.

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

(5) “Cleaning product” means a compound intended for routine cleaning, including general purpose cleaners, bathroom cleaners, glass cleaners, carpet cleaners, floor care products, and hand soaps. “Cleaning product” does not mean an antimicrobial pesticide.

(6) “Cookware” means durable houseware items used to prepare, dispense, or store food, foodstuffs, or beverages and that are intended for direct food contact, including pots, pans, skillets, grills, baking sheets, baking molds, trays, bowls, and cooking utensils.

(7) “Dental floss” means a string-like device made of cotton or other fibers intended to remove plaque and food particles from between the teeth to

reduce tooth decay. The fibers of the device may be coated with wax for easier use.

(8) “Fluorine treated container” means a fluorinated treated plastic container.

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

(7)(10) “Intentionally added” means the addition of a chemical in a product that serves an intended function in the product—component manufacturing of a product or in the final product and results in PFAS in the final product. The addition of PFAS must be known or reasonably ascertainable by the manufacturer. PFAS shall not be considered intentionally added if the chemical is present in the product due to use of water containing PFAS and the manufacturer took no action that resulted in the PFAS being present in the water.

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

(A) including a baby or toddler foam pillow; bassinet; bedside sleeper; booster seat; changing pad; infant bouncer; infant carrier; infant seat; infant sleep positioner; infant swing; infant travel bed; infant walker; nap cot; nursing pad; nursing pillow; pacifier; play mat; playpen; play yard;

polyurethane foam mat, pad, or pillow; portable foam nap mat; portable infant sleeper; portable hook-in chair; soft-sided portable crib; stroller; toddler mattress; and disposable, single-use diaper; and

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

(12) “Known or reasonably ascertainable” means all information in a person’s possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know.

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

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

~~(H)~~(15) *“Outdoor apparel” means clothing items intended primarily for outdoor activities, including hiking, camping, skiing, climbing, bicycling, and fishing.*

~~(I2)~~(16) *“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. Examples of extreme and extended use products include outerwear for offshore fishing, offshore sailing, whitewater kayaking, and mountaineering.*

~~(I3)~~(17) *“Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.*

~~(I4)~~(18) *“Personal protective equipment” has the same meaning as in section 2494p of this title.*

~~(I5)~~(19) *“Regulated perfluoroalkyl and polyfluoroalkyl substances” or “regulated PFAS” means:*

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

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

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

~~(16)~~(20) “Rug or carpet” means a fabric marketed or intended for use as a floor covering.

~~(17)~~(21) “Ski wax” means a lubricant applied to the bottom of snow runners, including skis and snowboards, to improve their grip and glide properties.

~~(18)~~(22) “Textile” means any item made in whole or part from a natural, manmade, or synthetic fiber, yarn, or fabric, and includes leather, cotton, silk, jute, hemp, wool, viscose, nylon, or polyester. “Textile” does not include single-use paper hygiene products, including toilet paper, paper towels, tissues, or single-use absorbent hygiene products.

~~(19)~~(23) “Textile articles” means textile goods of a type customarily and ordinarily used in households and businesses, and includes apparel, accessories, handbags, backpacks, draperies, shower curtains, furnishings, upholstery, bedding, towels, napkins, and table cloths. “Textile articles” does not include:

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

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

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

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

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

(F) rugs or carpets.

§ 2494f. ~~AFTERMARKET STAIN AND WATER-RESISTANT~~

TREATMENTS PROHIBITION ON PFAS IN CONSUMER

PRODUCTS

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

~~(b) This section shall not apply to the sale or resale of used products. A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in the State the following consumer products to which PFAS have been intentionally added in any amount:~~

(1) aftermarket stain and water-resistant treatments;

(2) artificial turf;

(3) cleaning products;

(4) cookware;

(5) dental floss;

(6) incontinency protection products;

(7) juvenile products;

(8) rugs and carpets; or

(9) ski wax.

(b) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in the State textiles or textile articles to which regulated PFAS have been intentionally added in any amount.

(c) The prohibitions under subsections (a) and (b) of this section shall not apply to the sale, offer for sale, distribution for sale, or distribution for use of any of the products listed under subsections (a) and (b) of this section that have been previously used by a consumer for the intended purpose of the product.

~~§ 2494g. ARTIFICIAL TURF~~

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

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

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

~~§ 2494h. COOKWARE~~

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

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

~~§ 2494i. INCONTINENCY PROTECTION PRODUCT~~

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

~~§ 2494j. JUVENILE PRODUCTS~~

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

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

~~§ 2494k. RUGS AND CARPETS~~

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

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

~~§ 2494l. SKI WAX~~

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

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

~~§ 2494m. TEXTILES~~

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

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

~~§ 2494g. FLUORINE TREATED CONTAINERS~~

~~(a) A manufacturer shall not sell, offer for sale, distribute for sale, or distribute for use in the State a product listed under subdivisions 2494f(a)(1)–(9) of this title that does not contain intentionally added PFAS but that is sold, offered for sale, distributed for sale, or distributed for use in the State in a fluorine treated container.~~

~~(b) The prohibition under subsection (a) of this section shall not apply to the sale, offer for sale, distribution for sale, or distribution for use of a product that has been previously used by a consumer for the intended purpose of the product.~~

~~(c) Beginning on January 1, 2030, a manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in the State a~~

fluorine treated container or any consumer product in a fluorine treated container.

(d)(1) The Attorney General may, by rule, allow the sale, offer for sale, distribution for sale, or distribution for use in the State of a consumer product prohibited under subsection (a) of this section or of a fluorine treated container or consumer product prohibited under subsection (c) of this section upon a determination that the use of PFAS in the consumer product or in the container is a currently unavoidable use.

(2) As used in this subsection, “currently unavoidable use” means that the use of PFAS is essential for health, safety, or the functioning of society and for which an alternative is not reasonably available.

§ 2494~~n~~ 2494h. CERTIFICATE OF COMPLIANCE

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

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

(2) notify persons who are selling a product of the manufacturer’s in this State that the sale is prohibited because the product does not comply with this

subchapter and submit to the Attorney General a list of the names and addresses of those persons notified.

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

§ ~~2494e~~ 2494i. VIOLATIONS

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

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

Sec. 2. 9 V.S.A. § 2494e(19) is amended to read:

(19) "Regulated perfluoroalkyl and polyfluoroalkyl substances" or "regulated PFAS" means:

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

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

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

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

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

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

(B) Outdoor apparel.

(C) Outdoor apparel for severe wet conditions.

Sec. 4. ANR REPORT ON PFAS REGULATION

(a) As used in this section, “perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(b) On or before January 15, 2027, the Secretary of Natural Resources shall submit to the House Committees on Environment and on Human Services and the Senate Committees on Natural Resources and Energy and on Health and Welfare a report regarding the regulation by other states of PFAS in consumer products. The report shall include:

(1) a summary of programs in other states that regulate PFAS in consumer products, including whether other states have implemented a regulatory program based on the definition of PFAS used in this section;

(2) if other states have implemented regulatory programs for PFAS, a summary of the effectiveness of the programs, including any obstacles or difficulties these states may have faced in implementing a program, the staffing required for a program, and the time frame under which each state implemented the program;

(3) a recommendation, based on review of regulatory programs in other states, whether Vermont should establish a regulatory program for PFAS in consumer products, including the State agency in which such a program should be located, the staffing required, and a time frame for implementation;
and

(4) any other information that the Secretary determines is necessary for the purpose of informing the General Assembly whether or not to enact a regulatory program for PFAS in consumer products.

Sec. 5. REPORTS

(a)(1) On or before January 15, 2033, the Secretary of Natural Resources shall provide a recommendation to the House Committees on Human Services and on Environment and the Senate Committees on Health and Welfare and on Natural Resources and Energy on how to address PFAS in complex durable goods.

(2) As used in this subsection, “complex durable goods” means a consumer product that is a manufactured good composed of 100 or more manufactured components, with an intended useful life of five or more years, where the product is typically not consumed, destroyed, or discarded after a single use. This includes replacement parts for complex durable goods not subject to a phaseout under this chapter.

(b)(1) On or before January 15, 2033, the Secretary of Agriculture, Food and Markets shall provide a recommendation to the House Committees on Human Services on Environment and the Senate Committees on Health and Welfare and on Natural Resources and Energy on how to address PFAS in food.

(2) As used in this subsection, “food” has the same meaning as in 18 V.S.A. § 4051.

Sec. 6. REPEALS

(a) 2024 Acts and Resolves No. 131, Sec. 4 (prospective definition for outdoor apparel for severe wet conditions) is repealed.

(b) 2024 Acts and Resolves No. 131, Sec. 5 (prospective definition of regulated PFAS) is repealed.

Sec. 7. 2024 Acts and Resolves No. 131, Sec. 13 is amended to read:

Sec. 13. EFFECTIVE DATES

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

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

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

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

Sec. 8. EFFECTIVE DATES

(a) This section and Secs. 4 and 5 (reports to the General Assembly) shall take effect on July 1, 2025.

(b)(1) Sec. 1 (PFAS in consumer products) shall take effect on January 1, 2026, except that:

(A) 9 V.S.A. § 2494f(a)(3) (cleaning products) and (a)(5) (dental floss) and 9 V.S.A. § 2494g (fluorine treated containers) shall take effect on July 1, 2027; and

(B) 9 V.S.A. § 2494f(a)(4) (cookware) shall take effect July 1, 2028.

(2) Sec. 1 shall supersede those provisions of 2024 Acts and Resolves No. 131, Sec. 3 that conflict with the provisions of this act.

(c) Sec. 2 (definition of regulated PFAS) shall take effect on July 1, 2027.

(d) Sec. 3 (definition of outdoor apparel) shall take effect on July 1, 2028.

(e) Secs. 6 (repeal of Act 131 provisions) and 7 (amended Act 131 effective dates) shall take effect on January 1, 2026.