

## **Senate proposal of amendment**

### **H. 238**

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

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

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

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  
“Intentionally added PFAS” means PFAS added to a product regulated under this subchapter or one of its product components to provide a specific characteristic, appearance, or quality or to perform a specific function.  
“Intentionally added PFAS” also includes any degradation byproducts of PFAS or PFAS that are intentional breakdown products of an added chemical. For the purposes of this chapter the use of PFAS as a processing agent, mold release agent, or intermediate is considered intentional introduction where PFAS are detected in the final covered product.

(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; and

(C) excluding children’s all-terrain vehicles, as that term is defined under 23 V.S.A. § 3801.

(9)(12) “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)~~(13) “Medical device” has the same meaning given to “device” in 21 U.S.C. § 321.

~~(11)~~(14) “Outdoor apparel” means clothing items intended primarily for outdoor activities, including hiking, camping, skiing, climbing, bicycling, and fishing.

~~(12)~~(15) “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.

~~(13)~~(16) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

~~(14)~~(17) “Personal protective equipment” has the same meaning as in section 2494p of this title.

~~(15)~~(18) “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)~~(19) “Rug or carpet” means a fabric marketed or intended for use as a floor covering.

~~(17)~~(20) “Ski wax” means a lubricant applied to the bottom of snow runners, including skis and snowboards, to improve their grip and glide properties.

~~(18)~~(21) “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)(22) “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) residential 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, 2032, 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.~~

~~§ 2494n~~ § 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.

§ 2494~~e~~ 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, on 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;

(4) whether other states have prohibited or restricted the use of fluorine treated containers, including a summary of how fluorine treated containers are used or allowed for use in other states;

(5) any other information that the Secretary determines is necessary for the purpose of informing the General Assembly whether to enact a regulatory program for PFAS in consumer products; and

(6) a summary of PFAS data in industrial processes, to the extent available, and whether any other state has restricted the use of PFAS-contaminated water in manufacturing.

#### **Sec. 5. REPORTS; PFAS IN COMPLEX DURABLE GOODS; FOOD**

(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 and 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.

(c) The Secretary of Natural Resources shall update the Senate Committee on Health and Welfare, the House Committee on Environment, and the Secretary of Natural Resources on the status of the regulation of PFAS in complex durable goods and in food in other states. The first status report shall be submitted on or before January 15, 2027, as part of the report required under Sec. 4 of this act or as testimony. The second update shall be provided as testimony to the committees on or before January 15, 2029.

#### 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.~~

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

Sec. 8. 9 V.S.A. § 2494p(2) is amended to read:

(2) ~~“Intentionally added” means the addition of a chemical in a product that serves an intended function in the product component.~~ “Intentionally added PFAS” means PFAS added to a product regulated under this subchapter or one of its product components to provide a specific characteristic, appearance, or quality or to perform a specific function. “Intentionally added PFAS” also includes any degradation byproducts of PFAS or PFAS that are

intentional breakdown products of an added chemical. For the purposes of this chapter the use of PFAS as a processing agent, mold release agent, or intermediate is considered intentional introduction where PFAS are detected in the final covered product.

Sec. 9. 9 V.S.A. § 2494s is amended to read:

(a) A manufacturer or other person that sells firefighting equipment to any person, municipality, or State agency shall ~~provide written notice to the purchaser at the time of sale, citing to this subchapter, if the personal protective equipment or station wear contains PFAS. The written notice shall include a statement that the personal protective equipment or station wear contains PFAS and the reason PFAS are added to the equipment~~ not sell, offer for sale, distribute for sale, or distribute for use in this State any personal protective equipment to which PFAS have been intentionally added.

(b) ~~The manufacturer or person selling personal protective equipment or station wear and the purchaser of the personal protective equipment or station wear shall retain the notice for at least three years from the date of the transaction. The prohibitions under subsection (a) of this section shall not apply to personal protective equipment that is a respirator or respirator protection equipment, provided that a manufacturer of a respirator or respirator protection equipment shall provide written notice to the purchaser at the time of sale, citing to this subchapter if the respirator or respirator protection equipment contains PFAS. The written notice shall include a statement that the respirator or respirator protection equipment contains PFAS and the reason PFAS are added to the equipment. The manufacturer or person selling respirator or respirator protection equipment and the purchaser of the respirator or respirator protection equipment shall retain the notice for at least three years from the date of the transaction.~~

Sec. 10. 9 V.S.A. § 2494s is amended to read:

§ 2494s. PROHIBITED SALE OF PERSONAL PROTECTIVE  
EQUIPMENT CONTAINING PFAS

(a) A manufacturer or other person that sells firefighting equipment to any person, municipality, or State agency shall not sell, offer for sale, distribute for sale, or distribute for use in this State any personal protective equipment to which PFAS have been intentionally added.

(b) ~~The prohibitions under subsection (a) of this section shall not apply to personal protective equipment that is a respirator or respirator protection equipment, provided that a manufacturer of a respirator or respirator protection equipment shall provide written notice to the purchaser at the time of sale, citing to this subchapter if the respirator or respirator protection equipment contains PFAS. The written notice shall include a statement that the respirator~~

~~or respirator protection equipment contains PFAS and the reason PFAS are added to the equipment. The manufacturer or person selling respirator or respirator protection equipment and the purchaser of the respirator or respirator protection equipment shall retain the notice for at least three years from the date of the transaction. [Repealed.]~~

Sec. 11. NOTICE OF PRESENCE OF PFAS IN STATION WEAR PRIOR  
TO PROHIBITION OF PFAS IN APPAREL

(a) As used in this section:

(1) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” has the same meaning as in 9 V.S.A. § 2494p.

(2) “Station wear” means uniform shirts and pants worn by firefighting personnel in the performance of their duties, often underneath personal protective equipment.

(b) Prior to the limitation of PFAS in textile articles under 9 V.S.A. chapter 63, subchapter 12A beginning on July 1, 2026 under 9 V.S.A. § 2494f, a manufacturer or other person that sells station wear to any person, municipality, or State agency shall provide written notice to the purchaser at the time of sale, citing to this subchapter, if the station wear contains PFAS. The written notice shall include a statement that station wear contains PFAS and the reason PFAS are added to the station wear. The manufacturer or person selling station wear and the purchaser of station wear shall retain the notice for at least three years from the date of the transaction.

Sec. 12. ANR REPORT ON AVAILABILITY OF PFAS-FREE PERSONAL  
PROTECTIVE EQUIPMENT

(a) As used in this section:

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

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

(b) On or before December 15, 2028, the Agency of Natural Resources, after consultation with the Department of Public Safety, shall report to the Senate Committees on Health and Welfare and on Natural Resources and Energy and the House Committees on Human Service and on Environment regarding the availability of personal protective equipment that does not include PFAS. The report shall include:

(1) a summary of the general availability in the State of personal protective equipment that does not include PFAS, including whether respirators that do not include PFAS are generally available to firefighting personnel in Vermont; and

(2) a summary of the cost of personal protective equipment that does not include PFAS, including whether the personal protective equipment that does not include PFAS is available at comparable costs to personal protective equipment that includes PFAS.

(c) The Agency of Natural Resources shall submit a copy of the report required under this section to the Vermont League of Cities and Towns to make available to municipal firefighting departments.

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

### Sec. 13. EFFECTIVE DATES

(a) This section and Secs. 4 and 5 (reports to the General Assembly), Sec. 11 (notice of PFAS in station wear), and Sec. 12 (availability of PFAS-free personal protective equipment) 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. § 2494e(10) (definition of intentionally added) shall take effect on July 1, 2027;

(B) 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

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

(2) Sec. 1 and this section 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.

(f) Sec. 8 (definition of intentionally added; PPE containing PFAS) shall take effect January 1, 2026 and shall supersede those provisions of 2024 Acts and Resolves No. 131, Sec. 6 that conflict with the provisions of this act.

(g) Sec. 9 (prohibition on sale of PPE containing PFAS) shall take effect on July 1, 2029.

(h) Sec. 10 (prohibition on sale of respirators containing PFAS) shall take effect on July 1, 2032.