

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Environment to which was referred House Bill No. 238
3 entitled “An act relating to the phaseout of consumer products containing
4 added perfluoroalkyl and polyfluoroalkyl substances” respectfully reports that
5 it has considered the same and recommends that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

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

9 Subchapter 12A. PFAS in Consumer Products

10 § 2494e. DEFINITIONS

11 As used in this subchapter:

12 (1) “Adult mattress” means a mattress other than a crib or toddler
13 mattress.

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

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

20 (A) Clothing items intended for regular wear or formal occasions,
21 including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits,

1 costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school
2 uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear,
3 formal wear, onesies, bibs, reusable diapers, footwear, and everyday uniforms
4 for workwear. Clothing items intended for regular wear or formal occasions
5 do not include clothing items for exclusive use by the U.S. Armed Forces,
6 outdoor apparel for severe wet conditions, and personal protective equipment.

7 (B) Outdoor apparel.

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

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

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

18 (7) “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 easier
21 use.

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

3 ~~(6)~~(9) “Incontinency protection product” means a disposable, absorbent
4 hygiene product designed to absorb bodily waste for use by individuals 12
5 years of age and older.

6 ~~(7)~~(10) “Intentionally added” means the addition of a chemical in a
7 product PFAS that serves an intended function in the product component
8 manufacturing of a product or in the final product and results in PFAS in the
9 final product. The addition of PFAS must be known or reasonably
10 ascertainable by the manufacturer. PFAS shall not be considered intentionally
11 added if the process water used in the manufacture of the product was from:

12 (A) a public water system permitted pursuant to 10 V.S.A. chapter
13 56; or

14 (B) a water source that does not violate the maximum contaminant
15 levels for PFAS established in the rules adopted under 10 V.S.A chapter 56.

16 ~~(8)~~(11) “Juvenile product” means a product designed or marketed for
17 use by infants and children under 12 years of age:

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

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

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

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

12 ~~(9)~~(13) “Manufacturer” means any person engaged in the business of
13 making or assembling a consumer product directly or indirectly available to
14 consumers. “Manufacturer” excludes a distributor or retailer, except when a
15 consumer product is made or assembled outside the United States, in which
16 case a “manufacturer” includes the importer or first domestic distributor of the
17 consumer product.

18 ~~(40)~~(14) “Medical device” has the same meaning given to “device” in
19 21 U.S.C. § 321.

1 ~~(11)~~(15) “Outdoor apparel” means clothing items intended primarily for
2 outdoor activities, including hiking, camping, skiing, climbing, bicycling, and
3 fishing.

4 ~~(12)~~(16) “Outdoor apparel for severe wet conditions” means outdoor
5 apparel that are extreme and extended use products designed for outdoor sports
6 experts for applications that provide protection against extended exposure to
7 extreme rain conditions or against extended immersion in water or wet
8 conditions, such as from snow, in order to protect the health and safety of the
9 user and that are not marketed for general consumer use. Examples of extreme
10 and extended use products include outerwear for offshore fishing, offshore
11 sailing, whitewater kayaking, and mountaineering.

12 ~~(13)~~(17) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS”
13 means a class of fluorinated organic chemicals containing at least one fully
14 fluorinated carbon atom.

15 ~~(14)~~(18) “Personal protective equipment” has the same meaning as in
16 section 2494p of this title.

17 ~~(15)~~(19) “Regulated perfluoroalkyl and polyfluoroalkyl substances” or
18 “regulated PFAS” means:

19 (A) PFAS that a manufacturer has intentionally added to a product
20 and that have a functional or technical effect in the product, including PFAS
21 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 ~~(16)~~(20) “Rug or carpet” means a fabric marketed or intended for use as
6 a floor covering.

7 ~~(17)~~(21) “Ski wax” means a lubricant applied to the bottom of snow
8 runners, including skis and snowboards, to improve their grip and glide
9 properties.

10 ~~(18)~~(22) “Textile” means any item made in whole or part from a natural,
11 manmade, or synthetic fiber, yarn, or fabric, and includes leather, cotton, silk,
12 jute, hemp, wool, viscose, nylon, or polyester. “Textile” does not include
13 single-use paper hygiene products, including toilet paper, paper towels, tissues,
14 or single-use absorbent hygiene products.

15 ~~(19)~~(23) “Textile articles” means textile goods of a type customarily and
16 ordinarily used in households and businesses, and includes apparel,
17 accessories, handbags, backpacks, draperies, shower curtains, furnishings,
18 upholstery, bedding, towels, napkins, and table cloths. “Textile articles” does
19 not include:

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

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

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

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

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

7 (F) rugs or carpets.

8 § 2494f. ~~AFTERMARKET STAIN AND WATER RESISTANT~~

9 ~~TREATMENTS~~ PROHIBITION ON PFAS IN CONSUMER

10 PRODUCTS

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

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

16 (a) A manufacturer shall not manufacture, sell, offer for sale, distribute for
17 sale, or distribute for use in the State the following consumer products to
18 which PFAS have been intentionally added in any amount:

19 (1) aftermarket stain and water-resistant treatments;

20 (2) artificial turf;

21 (3) cleaning products;

- 1 (4) cookware;
- 2 (5) dental floss;
- 3 (6) incontinency protection products;
- 4 (7) juvenile products;
- 5 (8) rugs and carpets; or
- 6 (9) ski wax.

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

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

14 ~~§ 2494g. ARTIFICIAL TURF~~

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

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

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

21 ~~§ 2494h. COOKWARE~~

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

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

5 ~~§ 2494i. INCONTINENCY PROTECTION PRODUCT~~

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

9 ~~§ 2494j. JUVENILE PRODUCTS~~

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

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

14 ~~§ 2494k. RUGS AND CARPETS~~

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

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

19 ~~§ 2494l. SKI WAX~~

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

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

5 ~~§ 2494m. TEXTILES~~

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

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

10 § 2494g. FLUORINE TREATED CONTAINERS

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

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

1 (c) Beginning on January 1, 2030, a manufacturer shall not manufacture,
2 sell, offer for sale, distribute for sale, or distribute for use in the State any
3 consumer product in a fluorine treated container.

4 § ~~2494n~~ 2494h. CERTIFICATE OF COMPLIANCE

5 (a) The Attorney General may request a certificate of compliance from a
6 manufacturer of a consumer product regulated under this subchapter. Within
7 60 days after receipt of the Attorney General’s request for a certificate of
8 compliance, the manufacturer shall:

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

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

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

1 § ~~2494e~~ 2494i. VIOLATIONS

2 (a) A violation of this subchapter is deemed to be a violation of section
3 2453 of this title.

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

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

9 (19) “Regulated perfluoroalkyl and polyfluoroalkyl substances” or
10 “regulated PFAS” means:

11 (A) PFAS that a manufacturer has intentionally added to a product
12 and that have a functional or technical effect in the product, including PFAS
13 components of intentionally added chemicals and PFAS that are intentional
14 breakdown products of an added chemical that also have a functional or
15 technical effect in the product; or

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

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

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

20 (A) Clothing items intended for regular wear or formal occasions,
21 including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits,

1 costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school
2 uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear,
3 formal wear, onesies, bibs, reusable diapers, footwear, and everyday uniforms
4 for workwear. Clothing items intended for regular wear or formal occasions
5 do not include clothing items for exclusive use by the U.S. Armed Forces,
6 outdoor apparel for severe wet conditions, and personal protective equipment.

7 (B) Outdoor apparel.

8 (C) Outdoor apparel for severe wet conditions.

9 Sec. 4. ANR REPORT ON PFAS REGULATION

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

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

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

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

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

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

13 **Sec. 5. REPORTS**

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

18 (2) As used in this subsection, “complex durable goods” means a
19 consumer product that is a manufactured good composed of 100 or more
20 manufactured components, with an intended useful life of five or more years,
21 where the product is typically not consumed, destroyed, or discarded after a

1 single use. This includes replacement parts for complex durable goods not
2 subject to a phase out under this chapter.

3 (b)(1) On or before January 15, 2033, the Secretary of Agriculture, Food
4 and Markets shall provide a recommendation to the House Committee on
5 Human Services and Senate Committee on Health and Welfare on how to
6 address PFAS in food.

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

9 Sec. 6. REPEALS

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

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

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

15 Sec. 13. EFFECTIVE DATES

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

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

21 (2) Sec. 2 (9 V.S.A. § 2494b) ~~and Sec. 5 (9 V.S.A. § 2494e(15))~~ shall

1 take effect on July 1, 2027;~~and~~

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

3 Sec. 8. EFFECTIVE DATES

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

6 (b) Sec. 1 (PFAS in consumer products) shall take effect on January 1,
7 2026, except that 9 V.S.A. § 2494f(3) (cleaning products) and (5) (dental floss)
8 and 9 V.S.A. § 2494g (fluorine treated containers) shall take effect on July 1,
9 2027. Sec. 1 shall supersede those provisions of 2024 Acts and Resolves No.
10 131, Sec. 3 that conflict with the provisions of this act.

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

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

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

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17 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE