

1 H.238

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

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

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

6 Subchapter 12A. PFAS in Consumer Products

7 § 2494e. DEFINITIONS

8 As used in this subchapter:

9 (1) “Adult mattress” means a mattress other than a crib or toddler
10 mattress.

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

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

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

1 for workwear. Clothing items intended for regular wear or formal occasions
2 do not include clothing items for exclusive use by the U.S. Armed Forces,
3 outdoor apparel for severe wet conditions, and personal protective equipment.

4 (B) Outdoor apparel.

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

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

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

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

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

1 ~~(6)~~(9) “Incontinency protection product” means a disposable, absorbent
2 hygiene product designed to absorb bodily waste for use by individuals 12
3 years of age and older.

4 ~~(7)~~(10) “Intentionally added” means the addition of a chemical in a
5 product that serves an intended function in the ~~product component~~
6 manufacturing of a product or in the final product and results in PFAS in the
7 final product. The addition of PFAS must be known or reasonably
8 ascertainable by the manufacturer. PFAS shall not be considered intentionally
9 added if the chemical is present in the product due to use of water containing
10 PFAS and the manufacturer took no action that resulted in the PFAS being
11 present in the water.

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

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

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

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

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

15 ~~(10)~~(14) “Medical device” has the same meaning given to “device” in
16 21 U.S.C. § 321.

17 ~~(11)~~(15) “Outdoor apparel” means clothing items intended primarily for
18 outdoor activities, including hiking, camping, skiing, climbing, bicycling, and
19 fishing.

20 ~~(12)~~(16) “Outdoor apparel for severe wet conditions” means outdoor
21 apparel that are extreme and extended use products designed for outdoor sports

1 experts for applications that provide protection against extended exposure to
2 extreme rain conditions or against extended immersion in water or wet
3 conditions, such as from snow, in order to protect the health and safety of the
4 user and that are not marketed for general consumer use. Examples of extreme
5 and extended use products include outerwear for offshore fishing, offshore
6 sailing, whitewater kayaking, and mountaineering.

7 ~~(13)~~(17) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS”
8 means a class of fluorinated organic chemicals containing at least one fully
9 fluorinated carbon atom.

10 ~~(14)~~(18) “Personal protective equipment” has the same meaning as in
11 section 2494p of this title.

12 ~~(15)~~(19) “Regulated perfluoroalkyl and polyfluoroalkyl substances” or
13 “regulated PFAS” means:

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

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

1 ~~(16)~~(20) “Rug or carpet” means a fabric marketed or intended for use as
2 a floor covering.

3 ~~(17)~~(21) “Ski wax” means a lubricant applied to the bottom of snow
4 runners, including skis and snowboards, to improve their grip and glide
5 properties.

6 ~~(18)~~(22) “Textile” means any item made in whole or part from a natural,
7 manmade, or synthetic fiber, yarn, or fabric, and includes leather, cotton, silk,
8 jute, hemp, wool, viscose, nylon, or polyester. “Textile” does not include
9 single-use paper hygiene products, including toilet paper, paper towels, tissues,
10 or single-use absorbent hygiene products.

11 ~~(19)~~(23) “Textile articles” means textile goods of a type customarily and
12 ordinarily used in households and businesses, and includes apparel,
13 accessories, handbags, backpacks, draperies, shower curtains, furnishings,
14 upholstery, bedding, towels, napkins, and table cloths. “Textile articles” does
15 not include:

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

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

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

19 component parts;

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

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

5 (F) rugs or carpets.

6 § 2494f. ~~AFTERMARKET STAIN AND WATER RESISTANT~~

7 TREATMENTS PROHIBITION ON PFAS IN CONSUMER

8 PRODUCTS

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

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

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

18 (2) artificial turf;

19 (3) cleaning products;

20 (4) cookware;

21 (5) dental floss;

1 (6) incontinency protection products;

2 (7) juvenile products;

3 (8) rugs and carpets; or

4 (9) ski wax.

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

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

12 ~~§ 2494g. ARTIFICIAL TURF~~

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

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

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

19 ~~§ 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(a)(1)–~~
13 ~~(9) 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 a fluorine
3 treated container or any consumer product in a fluorine treated container.

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

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

13 § ~~2494n~~ 2494h. CERTIFICATE OF COMPLIANCE

14 (a) The Attorney General may request a certificate of compliance from a
15 manufacturer of a consumer product regulated under this subchapter. Within
16 60 days after receipt of the Attorney General’s request for a certificate of
17 compliance, the manufacturer shall:

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

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

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

11 § ~~2494e~~ 2494i. VIOLATIONS

12 (a) A violation of this subchapter is deemed to be a violation of section
13 2453 of this title.

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

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

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

1 (A) PFAS that a manufacturer has intentionally added to a product
2 and that have a functional or technical effect in the product, including PFAS
3 components of intentionally added chemicals and PFAS that are intentional
4 breakdown products of an added chemical that also have a functional or
5 technical effect in the product; or

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

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

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

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

18 (B) Outdoor apparel.

19 (C) Outdoor apparel for severe wet conditions.

1 Sec. 4. ANR REPORT ON PFAS REGULATION

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

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

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

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

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

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

4 Sec. 5. REPORTS

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

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

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

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

3 Sec. 6. REPEALS

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

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

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

9 Sec. 13. EFFECTIVE DATES

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

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

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

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

18 Sec. 8. EFFECTIVE DATES

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

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

2 2026, except that:

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

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

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

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

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

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