

1 TO THE HONORABLE SENATE:

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

8 * * * PFAS in Consumer Products * * *

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

10 Subchapter 12A. PFAS in Consumer Products

11 § 2494e. DEFINITIONS

12 As used in this subchapter:

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

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

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

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

10 (B) Outdoor apparel.

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

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

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

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

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

7 ~~(6)~~(9) “Incontinency protection product” means a disposable, absorbent
8 hygiene product designed to absorb bodily waste for use by individuals 12
9 years of age and older.

10 ~~(7)~~(10) “Intentionally added” means the addition of a chemical in a
11 product that serves an intended function in the product component
12 “Intentionally added PFAS” means PFAS added to a covered product or one of
13 its product components to provide a specific characteristic, appearance, or
14 quality or to perform a specific function. “Intentionally added PFAS” also
15 includes any degradation byproducts of PFAS or PFAS that are intentional
16 breakdown products of an added chemical. For the purposes of this chapter the
17 use of PFAS as a processing agent, mold release agent, or intermediate is
18 considered intentional introduction where PFAS are detected in the final
19 covered product.

20 ~~(8)~~(11) “Juvenile product” means a product designed or marketed for
21 use by infants and children under 12 years of age:

1 (A) including a baby or toddler foam pillow; bassinet; bedside
2 sleeper; booster seat; changing pad; infant bouncer; infant carrier; infant seat;
3 infant sleep positioner; infant swing; infant travel bed; infant walker; nap cot;
4 nursing pad; nursing pillow; pacifier; play mat; playpen; play yard;
5 polyurethane foam mat, pad, or pillow; portable foam nap mat; portable infant
6 sleeper; portable hook-in chair; soft-sided portable crib; stroller; toddler
7 mattress; and disposable, single-use diaper; and

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

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

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

18 ~~(9)~~(13) “Manufacturer” means any person engaged in the business of
19 making or assembling a consumer product directly or indirectly available to
20 consumers. “Manufacturer” excludes a distributor or retailer, except when a
21 consumer product is made or assembled outside the United States, in which

1 case a “manufacturer” includes the importer or first domestic distributor of the
2 consumer product.

3 ~~(10)~~(14) “Medical device” has the same meaning given to “device” in
4 21 U.S.C. § 321.

5 ~~(11)~~(15) “Outdoor apparel” means clothing items intended primarily for
6 outdoor activities, including hiking, camping, skiing, climbing, bicycling, and
7 fishing.

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

16 ~~(13)~~(17) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS”
17 means a class of fluorinated organic chemicals containing at least one fully
18 fluorinated carbon atom.

19 ~~(14)~~(18) “Personal protective equipment” has the same meaning as in
20 section 2494p of this title.

1 ~~(15)~~(19) “Regulated perfluoroalkyl and polyfluoroalkyl substances” or
2 “regulated PFAS” means:

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

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

10 ~~(16)~~(20) “Rug or carpet” means a fabric marketed or intended for use as
11 a floor covering.

12 ~~(17)~~(21) “Ski wax” means a lubricant applied to the bottom of snow
13 runners, including skis and snowboards, to improve their grip and glide
14 properties.

15 ~~(18)~~(22) “Textile” means any item made in whole or part from a natural,
16 manmade, or synthetic fiber, yarn, or fabric, and includes leather, cotton, silk,
17 jute, hemp, wool, viscose, nylon, or polyester. “Textile” does not include
18 single-use paper hygiene products, including toilet paper, paper towels, tissues,
19 or single-use absorbent hygiene products.

20 ~~(19)~~(23) “Textile articles” means textile goods of a type customarily and
21 ordinarily used in households and businesses, and includes apparel,

1 accessories, handbags, backpacks, draperies, shower curtains, furnishings,
2 upholstery, bedding, towels, napkins, and table cloths. “Textile articles” does
3 not include:

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

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

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

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

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

12 (F) rugs or carpets.

13 § 2494f. ~~AFTERMARKET STAIN AND WATER RESISTANT~~

14 ~~TREATMENTS~~ PROHIBITION ON PFAS IN CONSUMER
15 PRODUCTS

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

20 (b) ~~This section shall not apply to the sale or resale of used products. A~~
21 manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or

1 distribute for use in the State the following consumer products to which PFAS
2 have been intentionally added in any amount:

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

4 (2) artificial turf;

5 (3) cleaning products;

6 (4) cookware;

7 (5) dental floss;

8 (6) incontinency protection products;

9 (7) juvenile products;

10 (8) residential rugs and carpets; or

11 (9) ski wax.

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

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

19 ~~§ 2494g. ARTIFICIAL TURF~~

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

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

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

5 § 2494h. ~~COOKWARE~~

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

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

10 § 2494i. ~~INCONTINENCY PROTECTION PRODUCT~~

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

14 § 2494j. ~~JUVENILE PRODUCTS~~

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

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

19 § 2494k. ~~RUGS AND CARPETS~~

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

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

5 ~~§ 2494l. SKI WAX~~

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

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

10 ~~§ 2494m. TEXTILES~~

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

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

15 § 2494g. FLUORINE TREATED CONTAINERS

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

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

5 (c) Beginning on January 1, 2032, a manufacturer shall not manufacture,
6 sell, offer for sale, distribute for sale, or distribute for use in the State a fluorine
7 treated container or any consumer product in a fluorine treated container.

8 ~~§ 2494a~~ § 2494h. CERTIFICATE OF COMPLIANCE

9 (a) The Attorney General may request a certificate of compliance from a
10 manufacturer of a consumer product regulated under this subchapter. Within
11 60 days after receipt of the Attorney General's request for a certificate of
12 compliance, the manufacturer shall:

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

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

20 (b) A manufacturer required to submit a certificate of compliance pursuant
21 to this section may rely upon a certificate of compliance provided to the

1 manufacturer by a supplier for the purpose of determining the manufacturer's
2 reporting obligations. A certificate of compliance provided by a supplier in
3 accordance with this subsection shall be used solely for the purpose of
4 determining a manufacturer's compliance with this section.

5 § ~~2494e~~ 2494i. VIOLATIONS

6 (a) A violation of this subchapter is deemed to be a violation of section
7 2453 of this title.

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

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

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

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

20 (B) the presence of PFAS in a product or product component at or
21 above ~~400~~ 50 parts per million, as measured in total organic fluorine.

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

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

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

11 (B) Outdoor apparel.

12 (C) Outdoor apparel for severe wet conditions.

13 Sec. 4. ANR REPORT ON PFAS REGULATION

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

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

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

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

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

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

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

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

1 Sec. 5. REPORTS; PFAS IN COMPLEX DURABLE GOODS; FOOD

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

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

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

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

20 (c) The Secretary of Natural Resources shall update the Senate Committee
21 on Health and Welfare, the House Committee on Environment, and the

1 Secretary of Natural Resources on the status of the regulation of PFAS in
2 complex durable goods and in food in other states. The first status report shall
3 be submitted on or before January 15, 2027, as part of the report required
4 under Sec. 4 of this act or as testimony. The second update shall be provided
5 as testimony to the committees on or before January 15, 2029.

6 Sec. 6. REPEALS

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

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

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

12 Sec. 13. EFFECTIVE DATES

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

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

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

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

21 * * * PFAS in Firefighting Agents and Equipment * * *

1 Sec. 8. 9 V.S.A. § 2494p is amended to read:

2 § 2494p. DEFINITIONS

3 As used in this subchapter:

4 * * *

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

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

9 § 2494s. SALE OF PERSONAL PROTECTIVE EQUIPMENT AND

10 STATION WEAR CONTAINING PFAS

11 (a) A manufacturer or other person that sells firefighting equipment to any
12 person, municipality, or State agency shall provide written notice to the
13 purchaser at the time of sale, citing to this subchapter, if the personal protective
14 equipment or station wear contains PFAS. The written notice shall include a
15 statement that the personal protective equipment or station wear contains
16 PFAS and the reason PFAS are added to the equipment.

17 (b) The manufacturer or person selling personal protective equipment or
18 station wear and the purchaser of the personal protective equipment or station
19 wear shall retain the notice for at least three years from the date of the
20 transaction.

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

2 § 2494s. PROHIBITED SALE OF PERSONAL PROTECTIVE

3 EQUIPMENT AND STATION WEAR CONTAINING PFAS

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

12 (b) ~~The manufacturer or person selling personal protective equipment or~~
13 ~~station wear and the purchaser of the personal protective equipment or station~~
14 ~~wear shall retain the notice for at least three years from the date of the~~
15 ~~transaction~~ The prohibitions under subsection (a) of this section shall not
16 apply to personal protective equipment that is a respirator or respirator
17 protection equipment.

18 * * * Effective Dates * * *

19 Sec. 11. EFFECTIVE DATES

20 (a) This section and Secs. 4 and 5 (reports to the General Assembly) shall
21 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, 2027.

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.

13 (f) Secs. 8 and 9 (PFAS in station wear) shall take effect on July 1, 2026.

14 (g) Sec. 10 (prohibition on sale of PPE and station wear containing PFAS)
15 shall take effect on July 1, 2029.

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1 (Committee vote: _____)

2 _____

3 Senator _____

4 FOR THE COMMITTEE