

1 Sec. 1. !0 V.S.A. chapter 169 is added to read:

2 CHAPTER 169. PHASE OUT OF PFAS ADDED CONSUMER PRODUCTS

3 § 7601. DEFINITIONS

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

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

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

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

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

- 1 (B) Outdoor apparel.
- 2 (5) “AFFF” or Aqueous Film Forming Foam means: a fire suppressant used to
3 extinguish flammable liquid fires such as fuel fires.
- 4 (6) “Artificial turf” means a surface of synthetic fibers that is used in place of natural
5 grass in recreational, residential, or commercial applications.
- 6 (7) “Cleaning product” means a compound intended for routine cleaning, including
7 general purpose cleaners, bathroom cleaners, glass cleaners, carpet cleaners, floor
8 care products, and hand soaps. Cleaning product shall not mean an antimicrobial
9 pesticide.
- 10 (8) “Carpet or rug” means a fabric product marketed or intended for use as a floor
11 covering.
- 12 (9) “Complex durable goods” means a consumer product that is a manufactured good
13 composed of 100 or more manufactured components, with an intended useful life
14 of 5 or more years, where the product is typically not consumed, destroyed, or
15 discarded after a single use.
- 16 (10) “Consumer product” means any tangible personal property that is distributed in
17 commerce, and which is normally used for personal, family, or household
18 purposes. “Consumer products” includes product categories that are normally
19 used by households but designed for or sold to businesses (e.g. commercial
20 carpets or commercial floor waxes). “Consumer products” do not include
21 complex durable goods or food.

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

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

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

14 (14) “Food” has the same meaning as defined in 18 V.S.A. § 4051.

15 (15) “Fluorine treated containers” means: a fluorinated treated plastic container or
16 another fluorinated container listed by the Secretary by rule.

17 (16) “Food packaging and containers” means: a container applied to or providing a
18 means to market, protect, handle, deliver, serve, contain, or store a food or
19 beverage. Food package includes:

20 (A) a unit package, an intermediate package, and a shipping container;

21 (B) unsealed receptacles, such as carrying cases, crates, cups, plates, bowls,

1 pails, rigid foil and other trays, wrappers and wrapping films, bags, and
2 tubs; and

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

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

8 (18) “Intentionally added” means either of the following:

9 (A) when a person manufacturing a product or product component knows or
10 reasonably should know the final product or product component could
11 contain PFAS, including because:

12 (i) PFAS or PFAS precursors are added to the product or product
13 component;

14 (ii) PFAS or PFAS precursors are used in the manufacturing process of
15 the product or product component; or

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

17 or

18 (B) the product or a product component contains PFAS above thresholds
19 established by the Secretary.

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

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

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

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

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

19 (22) “Menstrual product” means a product used to collect menstruation and vaginal
20 discharge, including tampons, pads, sponges, menstruation underwear, disks,
21 applicators, and menstrual cups, whether disposable or reusable.

- 1 (23) “Outdoor apparel” means clothing items intended primarily for outdoor activities,
2 including hiking, camping, skiing, climbing, bicycling, and fishing.
- 3 (24) “Outdoor apparel for severe wet conditions” means outdoor apparel that are
4 extreme and extended use products designed for outdoor sports experts for
5 applications that provide protection against extended exposure to extreme rain
6 conditions or against extended immersion in water or wet conditions, such as
7 from snow, in order to protect the health and safety of the user and that are not
8 marketed for general consumer use. Examples of extreme and extended use
9 products include outerwear for offshore fishing, offshore sailing, whitewater
10 kayaking, and mountaineering.
- 11 (25) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means one fully
12 fluorinated carbon compound that is identified as “PFAS” as defined in 40 C.F.R.
13 § 705.3. The Secretary may adopt exemptions to the definition of PFAS if that
14 chemical is federally regulated and not toxicologically similar to chemicals
15 defined as PFAS. The Secretary may add chemicals to the definition of PFAS if
16 that chemical contains at least one fully fluorinated carbon atom and is
17 toxicologically similar to chemicals defined as PFAS.
- 18 (26) “PFAS-added consumer product” means a consumer product that was
19 manufactured after the effective date of this chapter where PFAS was
20 intentionally added to that product or a component of the product.
- 21 (27) “Pesticide” has the same meaning as defined in 6 V.S.A. § 1101

- 1 (28) “Personal protective equipment” clothing designed, intended, or marketed to be
2 worn by firefighting personnel in the performance of their duties, designed with
3 the intent for use in fire and rescue activities, and includes jackets, pants, shoes,
4 gloves, helmets, and respiratory equipment.
- 5 (29) “Product component” means: an identifiable component of a product, regardless
6 of whether the manufacturer of the product is the manufacturer of the component.
- 7 (30) “Retailer” means a person who sells a PFAS-added product in the State through
8 any means, including a sales outlet, a catalogue, the telephone, the Internet, or any
9 electronic means. “Retailer” shall not mean a person who both manufactures and
10 sells at retail a consumer product with respect to the product that they
11 manufacture.
- 12 (31) “Ski wax” means a lubricant applied to the bottom of snow runners, including skis
13 and snowboards, to improve their grip and glide properties.
- 14 (32) “Textile” means any item made in whole or part from a natural, humanmade, or
15 synthetic fiber, yarn, or fabric, and includes, but is not limited to, leather, cotton,
16 silk, jute, hemp, wool, viscose, nylon, or polyester. “Textile” does not include
17 single-use paper hygiene products, including, but not limited to, toilet paper,
18 paper towels or tissues, or single-use absorbent hygiene products.
- 19 (33) “Textile articles” means textile goods of a type customarily and ordinarily used in
20 households and businesses, and includes apparel, accessories, handbags,
21 backpacks, draperies, shower curtains, furnishings, upholstery, bedding, towels,

1 napkins, and table cloths. “Textile articles” does not include:

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

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

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

5 (D) filtration media and filter products used in industrial applications,

6 including chemical or pharmaceutical manufacturing and environmental

7 control technologies;

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

9 (F) rugs or carpets.

10 (34) “Upholstered furniture” means: any article of furniture that is designed for sitting,
11 resting, or reclining, and is wholly or partially stuffed with filling material.

12 § 7602. EXEMPTIONS.

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

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

16 (2) Products made with at least 50 percent recycled content, excluding PFAS
17 solutions;

18 (3) Products manufactured prior to the phase out imposed by section 7604 of this
19 title;

20 (4) Any pesticide properly registered with the United States Environmental

21 Protection Agency and the Vermont Agency of Agriculture, Food and Markets ;

1 and

2 (5) Replacement parts for products manufactured prior to the ban imposed by section
3 7604 of this title.

4 § 7603. INTERJURISDICTION CLEARINGHOUSE

5 (a) The Secretary is authorized to participate in the establishment and implementation of a
6 multi-jurisdiction clearinghouse to assist in carrying out the requirements of this chapter
7 and to help coordinate applications and reviews of the manufacturer obligations under
8 this Act. The clearinghouse may also maintain a database or other collection of relevant
9 information, including but not limited to all products containing PFAS, including PFAS-
10 added products; applications for designation as a currently unavoidable use; and
11 exemptions granted by the participating jurisdictions.

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

17 (i) the Secretary provides notice of this section to the person submitting the
18 information; and

19 (ii) all member jurisdictions of the clearinghouse protect such information from
20 disclosure by law, including as provided in subsection (d) of this section.

21 (c) The Secretary may publish analyses or summaries of such information provided

- 1 that:
- 2 (i) the analyses or summaries do not reveal any information that is confidential
- 3 under 1 V.S.A. § 317(c); and
- 4 (ii) if relying on confidential information obtained from another jurisdiction, that
- 5 jurisdiction does not prohibit disclosure of such analyses or summaries.
- 6 (d) Communications and information shared among or between members of the
- 7 clearinghouse, including information maintained by the clearinghouse, shall not lose any
- 8 otherwise applicable protection from disclosure by virtue of being shared within the
- 9 clearinghouse.

10 § 7604. PHASE-OUTS ON THE SALE OF CERTAIN PFAS-ADDED PRODUCTS

11 Product phase-outs.

- 12 (1) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or
- 13 distribute for use in this State the following PFAS-added consumer products:
- 14 (A) AFFF;
- 15 (B) Aftermarket stain and water-resistant treatments;
- 16 (C) Apparel, textiles, and textile articles;
- 17 (D) Artificial turf;
- 18 (E) Carpets and rugs;
- 19 (F) Cleaning products;
- 20 (G) Cookware;
- 21 (H) Cosmetic products;

- 1 (I) Dental floss;
- 2 (J) Fluorine treated containers;
- 3 (K) Food packaging and containers;
- 4 (L) Incontinency protection products;
- 5 (M) Juvenile products;
- 6 (N) Menstrual products;
- 7 (O) Personal protective equipment;
- 8 (P) Ski wax; and
- 9 (Q) Upholstered furniture;
- 10 (2) [reserved].

11 § 7605. CERTIFICATE OF COMPLIANCE.

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

15 (1) provide a certificate to the requestor attesting that the manufacturer's product or
16 products comply with the requirements of this subchapter; or

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

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

1 § 8503. APPLICABILITY

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

5 (1) The following provisions of this title:

6 * * *

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

8 (W) chapter 164B (collection and management of covered household
9 hazardous products); and

10 (X) chapter 168 (phase out of PFAS added consumer products).

11 Sec. 4. 9 V.S.A. § 2494b is amended to read:

12 § 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL PRODUCTS

13 (a) A manufacturer shall not manufacture, sell, offer for sale, distribute for any cosmetic or
14 menstrual product to which the following chemicals or chemical classes have been
15 intentionally added in any amount:

16 (1) ortho-phthalates;

17 (2) [deleted] PFAS;

18 (3) formaldehyde (CAS 50-00-0);

19 (4) methylene glycol (CAS 463-57-0);

20 (5) mercury and mercury compounds (CAS 7439-97-6);

21 (6) 1, 4-dioxane (CAS 123-91-1);

- 1 (7) isopropylparaben (CAS 4191-73-5);
- 2 (8) isobutylparaben (CAS 4247-02-3);
- 3 (9) lead and lead compounds (CAS 7439-92-1);
- 4 (10) asbestos; (11) triclosan (CAS 3380-34-5);
- 5 (12) m-phenylenediamine and its salts (CAS 108-42-5);
- 6 (13) o-phenylenediamine and its salts (CAS 95-54-5); and
- 7 (14) quaternium-15 (CAS 51229-78-8).

8 * * *

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

10 Subchapter 12c. Chemicals of Concern in Food Packaging

11 § 2494w. DEFINITIONS

12 As used in this subchapter:

13 * * *

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

17 § 2494x. FOOD PACKAGING

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

21 * * *

1 Sec. 6. 10 V.S.A. § 7604 is amended to read:

2 § 7604. PHASE-OUTS ON THE SALE OF CERTAIN PFAS-ADDED PRODUCTS

3 Product phase-outs.

4 (1) The following PFAS-added consumer products shall be prohibited from being
5 offered for final sale or use or distributed for promotional purposes in the State:

6 (A) AFFF;

7 (B) Aftermarket stain and water-resistant treatments;

8 (C) Apparel, textiles, and textile articles;

9 (D) Artificial turf;

10 (E) Carpets and rugs;

11 (F) Cleaning products;

12 (G) Cookware;

13 (H) Cosmetic products;

14 (I) Dental floss;

15 (J) Fluorine treated containers;

16 (K) Food packaging and containers;

17 (L) Incontinency protection products

18 (L) Juvenile products;

19 (M) Menstrual products;

20 (N) Personal protective equipment;

21 (O) Ski wax; and

1 (P) Upholstered furniture;
2 (2) ~~reserved~~. A manufacturer shall not manufacture, sell, offer for sale, distribute
3 for sale, or distribute for use in this State a PFAS-added consumer product unless
4 the Secretary has determined the addition of PFAS to be a currently unavoidable
5 use of PFAS pursuant to subsection (b) of this section.

6 (b) Currently unavoidable use of PFAS. For products phased out under subsection (a)(2) of
7 this section:

8 (1) Upon application of a manufacturer, the Secretary may grant a waiver for up to
9 five years to the product ban if the Secretary finds the application clearly meets
10 the following criteria:

11 (A) The product is beneficial to the environment; protective of human health;
12 or protective of public safety, and

13 (B) There is no alternative to PFAS that presents less hazard to human health
14 and the environment that serves a functionally equivalent purpose to use
15 of PFAS in the product.

16 (2) The Secretary may, by rule, determine that PFAS is a currently unavoidable use in
17 a category of products. Category-based determinations made by the Secretary
18 shall be for a period of time identified in the rule not to exceed ten years. The
19 Secretary shall document the following as a part of the administrative record for
20 the rule:

21 (A) The category of products is beneficial to the environment, protective of

1 human health, or protective of public safety; and

2 (B) There is no alternative to PFAS that presents less hazard to human health
3 and the environment that serves a functionally equivalent purpose to use
4 of PFAS in the product.

5 Sec. 7. REPEAL.

6 9 V.S.A. chapter 63, subchapter 12a (PFAS in Consumer Products) and subchapter 12b
7 (PFAS in Firefighting Agents and Equipment) are repealed.

8 Sec. 8. REPORTS

9 (a) On or before January 15, 2030, the Secretary of Natural Resources shall provide a
10 recommendation to the House Committee on Human Services and Senate Committee on
11 Health and Welfare on how to address PFAS in complex durable goods.

12 (b) On or before January 15, 2030, the Secretary of Agriculture, Food and Markets shall
13 provide a recommendation to the House Committee on Human Services and Senate
14 Committee on Health and Welfare on how to address PFAS in food.

15 Sec. 9. EFFECTIVE DATES

16 (a) Secs. 1, 2, 3, 4, 5, 7, and 8 of this Act shall take effect on July 1, 2028.

17 (b) Sec. 6 of this Act shall become effective 6 months from the date the Secretary determines
18 that a law similar to this section has been adopted by any combination of the northeast
19 states with an aggregate population of at least 10,000,000 people. For purposes of this
20 section, northeast states shall include the New England states, New York, and New
21 Jersey. The Secretary shall notify the clerk of the House and Secretary of the Senate

1 when this requirement has been met.

DRAFT