

1 H.152

2 Introduced by Representatives Dolan of Waitsfield, Whitman of Bennington,

3 Ode of Burlington, Roberts of Halifax, and Small of Winooski

4 Referred to Committee on

5 Date:

6 Subject: Health; public health; chemicals; cosmetic products; apparel;

7 cookware; paper products; pesticides

8 Statement of purpose of bill as introduced: This bill proposes to prohibit the
9 manufacture, sale, and distribution in Vermont of apparel, cookware, paper
10 products, and pesticides containing PFAS by 2024. It also proposes to prohibit
11 the manufacture, sale, and distribution in Vermont of cosmetic products
12 containing certain chemicals and chemical classes by 2026. This bill proposes
13 to prohibit the manufacture, sale, and distribution of all products containing
14 PFAS by 2030.

15 An act relating to regulating products containing certain chemicals and
16 chemical classes

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

18 * * * Prohibits Certain PFAS in Pesticides Effective January 1, 2024 * * *

19 Sec. 1. 6 V.S.A. § 1101 is amended to read:

20 § 1101. DEFINITIONS

1 As used in this chapter unless the context clearly requires otherwise:

2 (1) “Secretary” ~~shall have~~ has the meaning stated in subdivision 911(4)
3 of this title.

4 (2) “Cumulative₂” when used in reference to a substance₂ means that the
5 substance so designated has been demonstrated to increase twofold or more in
6 concentration if ingested or absorbed by successive life forms.

7 (3) “Dealer or pesticide dealer” means any person who regularly sells
8 pesticides in the course of business, but not including a casual sale.

9 (4) “Economic poison” ~~shall have~~ has the meaning stated in subdivision
10 911(5) of this title.

11 (5) “Pest” means any insect, rodent, nematode, fungus, weed, or any
12 other form of terrestrial or aquatic plant or animal life or virus, bacteria, or
13 other microorganisms, ~~which~~ that the Secretary declares as being injurious to
14 health or environment. Pest ~~shall~~ does not mean any viruses, bacteria, or other
15 microorganisms on or in living humans or other living animals.

16 (6) “Pesticide₂” for the purposes of this chapter ~~shall be~~ is used
17 interchangeably with “economic poison.”

18 (7) “Treated article” means a pesticide or class of pesticides exempt
19 under 40 C.F.R. § 152.25(a) from regulation under the Federal Insecticide,
20 Fungicide, and Rodenticide Act, 7 U.S.C. § 136–136y.

1 (8) “Neonicotinoid pesticide” means any economic poison containing a
2 chemical belonging to the neonicotinoid class of chemicals.

3 (9) “Neonicotinoid treated article seeds” ~~are~~ means treated article seeds
4 that are treated or coated with a neonicotinoid pesticide.

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

8 (11) “Intentionally added” means the addition of a chemical in a product
9 that serves an intended function in the product component.

10 Sec. 2. 6 V.S.A. § 1114 is added to read:

11 § 1114. PERFLUOROALKYL AND POLYFLUOROALKYL

12 SUBSTANCES IN PESTICIDES

13 (a)(1) A person shall not sell, offer for sale, use, or distribute in the State a
14 pesticide that has been adulterated in an amount exceeding 20 ppt by the
15 following PFAS substances:

16 (A) perfluoroheptanoic acid (PFHpA);

17 (B) perfluorohexane sulfonic acid (PFHxS);

18 (C) perfluorononanoic acid (PFNA);

19 (D) perfluorooctane sulfonic acid (PFOS);

20 (E) perfluorooctanic acid (PFOA); and

21 (F) perfluorodecanoic acid (PFDA).

1 (2) The pesticide shall not contain the PFAS listed in this subsection as
2 an active, inactive, or inert ingredient.

3 (b) Pesticides that do not contain PFAS as an intentionally added ingredient
4 and that have been packaged within a fluorinated, high-density polyethylene
5 container shall be tested for PFAS prior to sale, offer for sale, or distribution in
6 the State. A pesticide that has been adulterated by PFAS from chemicals
7 leached from the container in an amount exceeding 20 ppt is prohibited from
8 sale, offer for sale, use, or distribution in the State.

9 (c) Manufacturers and distributors of pesticides shall submit a confidential
10 statement of formula for each pesticide or pesticide product registered with the
11 State and an affidavit to the Secretary. The statement of formula and the
12 affidavit are exempt from public inspection and copying under the Public
13 Records Act and shall be kept confidential.

14 (d) The manufacturers and distributors required to submit forms under
15 subsection (c) of this section shall submit the forms during the product
16 registration review or during reregistration pursuant to 6 V.S.A. § 918. The
17 affidavit shall state whether a pesticide has ever been stored, distributed, or
18 packaged in a fluorinated high-density polyethylene container and whether the
19 pesticide has been tested for PFAS.

20 (e) The Secretary shall specify the format for submission of the notice
21 required. Any notice submitted shall contain the following information:

1 (1) the name of the intentionally added chemicals in the pesticide
2 registered with the U.S. Environmental Protection Agency;

3 (2) a description of the product or product component containing the
4 PFAS, including the brand name, the product model, and the universal product
5 code (UPC) if the product has such a code;

6 (3) the amount of the chemical contained in each unit of the product or
7 product component, reported by weight or parts per trillion as authorized by
8 the Secretary;

9 (4) the name and address of the manufacturer of the product and the
10 name, address, and telephone number of a contact person for the manufacturer;
11 and

12 (5) any other information the manufacturer deems relevant to the
13 appropriate use of the product.

14 * * * Prohibits PFAS in Apparel, Cookware, and Paper Products

15 Effective January 1, 2024 * * *

16 Sec. 3. 18 V.S.A. chapter 33C is amended to read:

17 CHAPTER 33C. PFAS IN SKI WAX, APPAREL, COOKWARE, AND
18 PAPER PRODUCTS

19 § 1691. DEFINITIONS

20 As used in this chapter:

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

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

9 (B) Outdoor apparel.

10 (C) Outdoor apparel for severe wet conditions.

11 (2) “Cookware” means durable houseware items that are used in homes
12 and restaurants to prepare, dispense, or store food, foodstuffs, or beverages.
13 “Cookware” includes pots, pans, skillets, grills, baking sheets, baking molds,
14 trays, bowls, and cooking utensils.

15 (3) “Department” means the Department of Health.

16 ~~(2)~~(4) “Intentionally added” means the addition of a chemical in a
17 product that serves an intended function in the product component.

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

21 (6) “Paper products” means:

1 (A) printing, writing, and related paper, which is coated or uncoated
2 paper that is subsequently converted into products used for printing, writing,
3 and other communication purposes, such as file folders, envelopes, catalogues,
4 magazines, and brochures;

5 (B) kraft packaging paper, which is coarse unbleached, semi-
6 bleached, or fully bleached grades of paper, that is subsequently converted into
7 products such as grocery bags, multiwall sacks, waxed paper, and other
8 products;

9 (C) containerboard, which is all forms of linerboard and medium that
10 is used to manufacture corrugated boxes, shipping containers, and related
11 products; and

12 (D) paperboard, which is solid bleached kraft board, recycled board,
13 and unbleached kraft board that is subsequently converted into a wide variety
14 of end uses, including folding boxes, food and beverage packaging, tubes,
15 cans, drums, and other miscellaneous products, but not construction-related
16 products such as gypsum wallboard facings and panel board.

17 ~~(3)~~(7) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” has
18 the same meaning as in section 1661 of this title.

19 (8) “Personal protective equipment” has the same meaning as in section
20 1661 of this title.

1 ~~(4)~~(9) “Ski wax” means a lubricant applied to the bottom of snow
2 runners, including skis and snowboards, to improve their grip and glide
3 properties.

4 § 1692. SKI WAX

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

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

10 § 1692a. APPAREL

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

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

15 § 1692b. COOKWARE

16 (a) A manufacturer, supplier, or distributor shall not manufacture, sell,
17 offer for sale, distribute for sale, or distribute for use in this State cookware to
18 which PFAS have been intentionally added in any amount.

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

1 § 1692c. PAPER PRODUCTS

2 (a) A manufacturer, supplier, or distributor shall not manufacture, sell,
3 offer for sale, distribute for sale, or distribute for use in this State paper
4 products to which PFAS have been intentionally added in any amount.

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

6 § 1693. CERTIFICATE OF COMPLIANCE

7 The Attorney General may request a certificate of compliance from a
8 manufacturer of ski wax, apparel, cookware, or paper products. Within 30
9 days after receipt of the Attorney General's request for a certificate of
10 compliance, the manufacturer shall:

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

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

18 § 1694. RULEMAKING

19 Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt any rules
20 necessary for the implementation, administration, and enforcement of this
21 chapter.

1 § 1695. PENALTIES

2 (a) A violation of this chapter shall be deemed a violation of the Consumer
3 Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same
4 authority to make rules, conduct civil investigations, enter into assurances of
5 discontinuance, and bring civil actions, and private parties have the same rights
6 and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

7 (b) Nothing in this section shall be construed to preclude or supplant any
8 other statutory or common law remedies.

9 * * * Prohibiting Certain Chemicals in Cosmetic Products

10 Effective July 1, 2026 * * *

11 Sec. 4. 18 V.S.A. chapter 36 is added to read:

12 CHAPTER 36. CHEMICALS IN COSMETIC PRODUCTS

13 § 1721. DEFINITIONS

14 As used in this chapter:

15 (1) “Bisphenols” means any member of a class of industrial chemicals
16 that contain two hydroxyphenyl groups. Bisphenols are used primarily in the
17 manufacture of polycarbonate plastic and epoxy resins.

18 (2) “Coal tar compounds” means chemicals in coal tar, including coal
19 tar (CAS 65996-92-1) and carbon black (CAS 1333-86-4).

20 (3) “Cosmetic product” means articles or a component of articles
21 intended to be rubbed, poured, sprinkled, or sprayed on; introduced into; or

1 otherwise applied to the human body or any part thereof for cleansing,
2 promoting attractiveness, or improving or altering appearance, including those
3 intended for use by professionals. “Cosmetic product” does not mean soap,
4 dietary supplements, or food and drugs approved by the U.S. Food and Drug
5 Administration.

6 (4) “Formaldehyde releasing agent” means a chemical that releases
7 formaldehyde.

8 (5) “Manufacturer” means any person, firm, association, partnership,
9 corporation, organization, joint venture, importer, or domestic distributor of a
10 cosmetic product. As used in this subdivision, “importer” means the owner of
11 the product.

12 (6) “Ortho-phthalates” means any member of the class of organic
13 chemicals that are esters of phthalic acid containing two carbon chains located
14 in the ortho position.

15 (7) “Parabens” means esters of parahydroxybenzoic acid, including
16 methylparaben (CAS 99-76-3), ethylparaben, propylparaben (CAS 94-13-3),
17 and butylparaben (CAS 94-26-8).

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

1 (9) “Professional” means a person granted a license pursuant to
2 26 V.S.A. chapter 6 to practice in the field of barbering, cosmetology,
3 manicuring, or esthetics.

4 (10) “Undisclosed synthetic fragrances” means manmade chemicals that
5 serve the function of being fragrances in a cosmetic product and have not been
6 disclosed to the public on a label or on a manufacturer’s website.

7 § 1722. PROHIBITED CHEMICALS IN COSMETIC PRODUCTS

8 (a) A manufacturer, supplier, or distributor shall not manufacture, sell,
9 offer for sale, distribute for sale, or distribute for use in this State any cosmetic
10 product that contains any of the following chemicals or chemical classes:

11 (1) Ortho-phthalates;

12 (2) PFAS;

13 (3) Bisphenols;

14 (4) Formaldehyde (CAS 50-00-0) and formaldehyde releasing agents;

15 (5) Arsenic and arsenic compounds (CAS 7440-38-2);

16 (6) Ethylene glycol (CAS 107-21-1);

17 (7) Methylene glycol (CAS 463-57-0);

18 (8) Mercury and mercury compounds (CAS 7439-97-6);

19 (9) Styrene (CAS 100-42-5);

20 (10) 1,4-dioxane (CAS 123-91-1);

21 (11) Cadmium and cadmium compounds (CAS 7440-43-9);

- 1 (12) Octamethylcyclotetrasiloxane (CAS 556-67-2);
- 2 (13) Decamethylcyclopentasiloxane (CAS 541-02-6);
- 3 (14) Toluene (CAS 108-88-3);
- 4 (15) Parabens;
- 5 (16) Lead and lead compounds (CAS 7439-92-1);
- 6 (17) Asbestos;
- 7 (18) Hydroquinone (CAS 123-31-9);
- 8 (19) 2-Ethyhexyl acrylate (CAS 103-11-7);
- 9 (20) Ethyl acrylate (CAS 140-88-5);
- 10 (21) Aluminum salts;
- 11 (22) Benzalkonium chloride (CAS 8001-54-5);
- 12 (23) Coal tar compounds;
- 13 (24) Triclosan (CAS 3380-34-5);
- 14 (25) Methylisothiazolinone (CAS 2682-20-4);
- 15 (26) Methylchloroisothiazolinone (CAS 26172-55-4);
- 16 (27) m-phenylenediamine and its salts (CAS 108-42-5);
- 17 (28) o-phenylenediamine and its salts (CAS 95-54-5);
- 18 (29) p-phenylenediamine and its salts (CAS 106-50-3); and
- 19 (30) any undisclosed synthetic fragrances not listed in this subsection.
- 20 (b) A cosmetic product made through manufacturing processes intended to
- 21 comply with this chapter and containing a technically unavoidable trace

1 quantity of a chemical or chemical class listed in subsection (a) of this section
2 shall not be in violation of this chapter on account of the trace quantity where it
3 is the result of:

4 (1) natural or synthetic ingredients;

5 (2) the manufacturing process;

6 (3) storage; or

7 (4) migration from packaging.

8 § 1723. CERTIFICATE OF COMPLIANCE

9 The Attorney General may request a certificate of compliance from a
10 manufacturer of a cosmetic product. Within 30 days after receipt of the
11 Attorney General's request for a certificate of compliance, the manufacturer
12 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 chapter; or

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

1 § 1724. RULEMAKING

2 Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt any rules
3 necessary for the implementation, administration, and enforcement of this
4 chapter.

5 § 1725. PENALTIES

6 (a) A violation of this chapter shall be deemed a violation of the Consumer
7 Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same
8 authority to make rules, conduct civil investigations, enter into assurances of
9 discontinuance, and bring civil actions, and private parties have the same rights
10 and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

11 (b) Nothing in this section shall be construed to preclude or supplant any
12 other statutory or common law remedies.

13 * * * Prohibiting PFAS in All Products Effective July 1, 2030 * * *

14 Sec. 5. 18 V.S.A. chapter 33D is added to read:

15 CHAPTER 33D. PRODUCTS CONTAINING PFAS

16 § 1697. DEFINITIONS

17 As used in this chapter:

18 (1) “Adjuvant” means a substance added to a pesticide product or
19 pesticide spray mixture to enhance the pesticide’s performance or the physical
20 properties of the spray mixture.

21 (2) “Department” means the Department of Health.

1 (3) “Intentionally added” means the addition of a chemical in a product
2 that serves an intended function in the product component.

3 (4) “Manufacturer” means any person, firm, association, partnership,
4 corporation, organization, joint venture, importer, or domestic distributor of a
5 product. As used in this subdivision, “importer” means the owner of the
6 product.

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

10 (6) “Pesticide” means:

11 (A) any substance produced, distributed, or used for preventing,
12 destroying, or repelling any insects, rodents, nematodes, fungi, weeds, or other
13 forms of plant or animal life or viruses, except viruses on or in living humans
14 or other animals, that the Secretary shall declare to be a pest; or

15 (B) any substance produced, distributed, or used as a plant regulator,
16 defoliant, or desiccant.

17 (7) “Product” means an item manufactured, assembled, packaged, or
18 otherwise prepared for sale to consumer, including its product components,
19 sold or distributed for personal, residential, commercial, or industrial use,
20 including for use in making products. As used in this chapter, “product”
21 includes adjuvants and pesticides.

1 (8) “Product component” means an identifiable component of a product,
2 regardless of whether the manufacturer of the product is the manufacturer of
3 the component.

4 § 1698. PROHIBITION ON PRODUCTS CONTAINING PFAS

5 Unless otherwise required by federal law, a manufacturer, supplier, or
6 distributor shall not manufacture, sell, offer for sale, distribute for sale, or
7 distribute for use in this State any product that contains intentionally added
8 PFAS, unless the Department has determined by rule pursuant to 3 V.S.A.
9 chapter 25 that the use of PFAS in a product is currently an unavoidable use.
10 The Department may specify by rule specific products or product categories in
11 which it has determined that the use of PFAS is currently an unavoidable use.
12 This prohibition does not apply to the sale or resale of used products.

13 Sec. 6. REPEAL

14 (a) 18 V.S.A. § 1663 (PFAS in firefighting agents; restrictions on
15 manufacture, sale, and distribution; exceptions) is repealed on July 1, 2030.

16 (b) 18 V.S.A. § 1672(a) (PFAS in food packaging) is repealed on July 1,
17 2030.

18 (c) 18 V.S.A. chapter 33B (PFAS in rugs, carpets, and aftermarket stain
19 and water resistant treatments) is repealed on July 1, 2030.

20 (d) 18 V.S.A. chapter 33C (PFAS in ski wax, apparel, cookware, and paper
21 products) is repealed on July 1, 2030.

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* * * Effective Dates * * *

Sec. 7. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that:

(1) Sec. 1 (definitions), Sec. 2 (perfluoroalkyl and polyfluoroalkyl substances in pesticides), and Sec. 3 (PFAS in ski wax, apparel, cookware, and paper products) shall take effect on January 1, 2024;

(2) Sec. 4 (chemicals in cosmetic products) shall take effect on July 1, 2026; and

(3) Sec. 5 (products containing PFAS) shall take effect on July 1, 2030.