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H.650

Introduced by Representatives McCullough of Williston, Stebbins of  
Burlington, and Rachelson of Burlington

Referred to Committee on

Date:

Subject: Conservation and development; solid waste; water quality; PFAS;  
biosolids

Statement of purpose of bill as introduced: This bill proposes to prohibit the  
intentional use of perfluoroalkyl and polyfluoroalkyl substances in products to  
be sold in Vermont. This bill also proposes to prohibit the use and import of  
wastes that contain microplastics.

An act relating to prohibiting perfluoroalkyl and polyfluoroalkyl substances  
in products to be sold in Vermont and the use and import of wastes  
containing microplastics

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

Sec. 1. REDESIGNATION

(a) 18 V.S.A. §§ 1681–1686, as enacted by 2021 Acts and Resolves No. 36  
and as effective on July 1, 2023, shall be redesignated as 18 V.S.A. §§ 1676–  
1681 on effect.

1           **(b) 18 V.S.A. §§ 1691–1695, as enacted by 2021 Acts and Resolves No. 36**  
2           **and as effective on July 1, 2023, shall be redesignated as 18 V.S.A. §§ 1682–**  
3           **1686 on effect.**

4           Sec. 2. 18 V.S.A. chapter 33D is added to read:

5                           **CHAPTER 33D. PROHIBITING PFAS IN PRODUCTS**

6           **§ 1691. DEFINITIONS**

7           **As used in this chapter:**

8                           **(1) “Currently unavoidable use” means a use of PFAS that the**  
9           **Department has determined by rule under this chapter to be essential for health,**  
10           **safety, or the functioning of society and for which alternatives are not**  
11           **reasonably available.**

12                           **(2) “Department” means the Department of Health.**

13                           **(3) “Intentionally added” means the addition of a chemical in a product,**  
14           **or one of its product components, that serves an intended function or provides**  
15           **a specific characteristic, appearance, or quality.**

16                           **(4) “Manufacturer” means a person who:**

17                                   **(A) manufactures or manufactured a product with intentionally added**  
18           **PFAS under its own brand or label for sale in or into the State;**

19                                   **(B) sells in or into the State under its own brand or label a product**  
20           **with intentionally added PFAS produced by another supplier;**

1           (C) owns a brand that it licenses or licensed to another person for use  
2           on a product with intentionally added PFAS sold in or into the State;

3           (D) imports into the United States for sale in or into the State a  
4           product with intentionally added PFAS manufactured by a person without a  
5           presence in the United States; or

6           (E) manufactures a product containing intentionally added PFAS for  
7           sale in or into the State without affixing a brand name.

8           (5) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” has the  
9           same meaning as in section 1661 of this title. For the purposes of this chapter,  
10          “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” also includes any  
11          degradation byproducts of PFAS.

12          (6) “Product” means an item manufactured, assembled, packaged, or  
13          otherwise prepared for sale to consumers, including its product components,  
14          sold or distributed for personal, residential, commercial, or industrial use,  
15          including for use in making other products.

16          (7) “Product component” means an identifiable component of a product,  
17          regardless of whether the manufacturer of the product is the manufacturer of  
18          the component.

19          (8) “Retailer” means a person who sells, but does not produce, in or into  
20          the State a product with intentionally added PFAS produced by a manufacturer

1 to the public through any means, including a sales outlet, a catalogue, the  
2 telephone, the Internet, or any electronic means.

3 (9) “Used product” means a product that has been previously owned,  
4 purchased, or sold in commerce and that is resold by a person who is not  
5 regularly engaged in the business of making sales of that general type of  
6 product at retail where the product was obtained by the person making the sale,  
7 through purchase or otherwise, for their own use.

8 § 1692. NOTIFICATION OF USE

9 (a) On or before January 1, 2024, and updated as directed in subsection (c)  
10 of this section, a manufacturer of a product for sale in the State that contains  
11 intentionally added PFAS shall submit to the Department a written notification  
12 that includes:

13 (1) A brief description of product.

14 (2) The purpose for the intentional addition of PFAS in the product and  
15 any product components.

16 (3) The amount of each of the PFAS intentionally added to the product,  
17 identified by its chemical abstracts services registry number by an independent  
18 testing laboratory. The amount shall be reported as an exact quantity  
19 determined using commercially available analytical methods or as falling  
20 within a range approved for reporting purposes by the department.

1           (4) The name and address of the manufacturer, and the name, address,  
2           and phone number of a contact person for the manufacturer.

3           (5) The name of the independent testing laboratory used to determine  
4           the amount of PFAS in the product and the name, address, and phone number  
5           of a contact person for the independent testing laboratory.

6           (6) Any additional information established by the Department by rule  
7           under section 1696 of this chapter that is necessary to implement the  
8           requirements of this chapter.

9           (b) With approval of the Department, a manufacturer may supply the  
10          information required in subsection (a) of this section for a category, type, or  
11          class of products rather than for each individual product.

12          (c) In accordance with rules adopted by the Department, a manufacturer  
13          shall:

14           (1) update and revise the information in the written notification  
15           described in subsection (a) of this section whenever there is a significant  
16           change in the information that was provided; and

17           (2) submit a written notification as described in subsection (a) of this  
18           section for any products that were not yet sold as of January 1, 2024.

19           (d) The Department may extend the deadline for submission by a  
20           manufacturer of the information required under this section if the Department

1 determines that more time is needed by the manufacturer to comply with the  
2 written notification requirement.

3 (e) On or before January 15, 2023, the Department shall submit a report to  
4 the General Assembly describing a proposed fee payable by a manufacturer  
5 upon submission of the notification required under this section.

6 (1) The funds raised from this fee shall be used to cover the  
7 Department's reasonable costs in developing rules and administering the  
8 requirements under this chapter.

9 (2) The Department may set the fee based on the volume of PFAS, the  
10 volume of sales of PFAS-containing products, or the type of PFAS sold.

11 § 1693. PROHIBITION

12 (a) Notwithstanding subsection (d) of this section, the Department may by  
13 rule identify products by category that may not be sold or offered for sale in or  
14 into this State if they contain intentionally added PFAS. The Department shall  
15 first prioritize the prohibition of the sale of product categories that, in the  
16 Department's judgment, affects the health of the public in this State. The  
17 Department shall secondly prioritize, in consultation with the Agency of  
18 Natural Resources and the Agency of Agriculture, Food and Markets,  
19 prohibition of the sale of products and product categories that are most likely  
20 to cause contamination of the State's land or water resources if they contain  
21 intentionally added PFAS.

1           (1) Products where the intentional use of PFAS is currently unavoidable  
2           may be exempted by the Department by rule.

3           (2) The Department shall not prohibit the sale or resale of used products.

4           (b) A manufacturer, other than a retailer, shall not sell or offer for sale a  
5           product containing intentionally added PFAS in or into the State unless the  
6           manufacturer of that product has provided a written notification required under  
7           section 1692 to the Department. This prohibition does not apply to products  
8           that have been determined by the Department by rule that the intentional use of  
9           PFAS in the product is a currently unavoidable use.

10          (c) A retailer shall not sell or offer for sale a product containing  
11          intentionally added PFAS in or into this State if the retailer has received a  
12          notification regarding that product required by section 1694 of this chapter.

13          (d) On and after January 1, 2030, a person may not sell or offer for sale any  
14          product that contains intentionally added PFAS in or into this State, unless the  
15          Department has determined by rule that the use of PFAS in the product is a  
16          currently unavoidable use.

17          (1) The Department may specify specific products or product categories  
18          by rule in which it has determined the use of PFAS is a currently unavoidable  
19          use.

20          (2) This prohibition does not apply to the sale or resale of used products.

1     § 1694. CERTIFICATE OF COMPLIANCE

2             The Attorney General may request a certificate of compliance from a  
3     manufacturer. Within 30 days after receipt of the Attorney General's request  
4     for a certificate of compliance, the manufacturer shall:

5             (1) provide the Attorney General with a certificate of compliance  
6     attesting that the manufacturer's product or products comply with the  
7     requirements of this chapter; or

8             (2) notify persons who sell that product in the State that the sale of that  
9     product is prohibited because the product does not comply with this chapter  
10    and submit to the Attorney General a list of names and addresses of those  
11    notified.

12    § 1695. PFAS REDUCTION PROGRAM

13            The Department shall develop and implement, in consultation with the  
14    Agency of Natural Resources, the Agency of Agriculture, Food and Markets,  
15    and other relevant stakeholders, a program to reduce the presence of PFAS in  
16    discharges to air, water, and land. The program shall be designed to encourage  
17    the replacement of PFAS with safer alternatives but may also support the  
18    proper management and treatment of PFAS. Elements of the program may be  
19    carried out in conjunction with existing Department efforts for pollution  
20    prevention or source reduction. The program shall:



- 1           (1) provide informational resources targeted to industrial and  
2           commercial users of PFAS;  
3           (2) provide educational resources to the general public;  
4           (3) provide grants, to the extent funds are available, to operators of  
5           wastewater treatment facilities for the purposes of developing, expanding, or  
6           implementing pretreatment standards for PFAS;  
7           (4) provide grants, to the extent funds are available, to municipalities  
8           and operators of wastewater treatment facilities for the purposes of educating  
9           solid waste disposal users on sources of PFAS and proper management; and  
10           (5) other efforts determined by the Department to achieve the program's  
11           purpose.

12           § 1696. RULEMAKING

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

16           § 1697. PENALTIES

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





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

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

8 \* \* \*

9 Sec. 4. 10 V.S.A. § 1259 is amended to read:

10 § 1259. PROHIBITIONS

11 \* \* \*

12 (k) No person shall cause a discharge of landfill leachate that contains  
13 microplastics or PFAS to waters of the State, including when the leachate has  
14 been treated by a wastewater treatment facility.

15 (l) On and after July 1, 2027, no new permit or permit renewal under this  
16 chapter shall be issued to a wastewater treatment facility with a combined  
17 sewer overflow.

18 Sec. 5. 10 V.S.A. § 6605 is amended to read:

19 § 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

20 (a)(1) No person shall construct, substantially alter, or operate any solid  
21 waste management facility without first obtaining certification from the

1 Secretary for such facility, site, or activity, except for sludge or septage  
2 treatment or storage facilities located within the fenced area of a domestic  
3 wastewater treatment plant permitted under chapter 47 of this title. This  
4 exemption for sludge or septage treatment or storage facilities shall exist only  
5 if:

6 (A) ~~the~~ The treatment facility does not use a process to reduce  
7 pathogens further in order to qualify for marketing and distribution; ~~and~~

8 (B) ~~the~~ The facility is not a drying bed, lagoon, or nonconcrete  
9 bunker; ~~and~~

10 (C) ~~the~~ The owner of the facility has submitted a sludge and septage  
11 management plan to the Secretary and the Secretary has approved the plan.  
12 Noncompliance with an approved sludge and septage management plan shall  
13 constitute a violation of the terms of this chapter, as well as a violation under  
14 chapters 201 and 211 of this title.

15 (D) The facility does not import sludge or septage the contains  
16 microplastics or PFAS.

17 \* \* \*

1 Sec. 6. 10 V.S.A. § 6604b is amended to read:

2 § 6604b. TESTING OF SOLID WASTES PRIOR TO BENEFICIAL USE

3 ON LAND OR DISTRIBUTION AND MARKETING

4 (a) The Secretary of Natural Resources, in consultation with the Secretary  
5 of Agriculture, Food and Markets and with the Commissioner of Health, shall  
6 adopt rules to establish a testing program for all sewage sludge, or similar  
7 liquid wastes, prior to their beneficial use on land or prior to distribution and  
8 marketing of those wastes in liquid or solid form. The testing program shall  
9 establish a process for the determination of minimum testing frequencies and  
10 specific parameters for which analysis must be completed and shall detail  
11 procedures by which samples are collected, stored, and tested. The testing  
12 program shall establish a process for identifying microplastics and PFAS in the  
13 waste.

14 \* \* \*

15 Sec. 7. 10 V.S.A. § 6604d is added to read:

16 § 6604d. PROHIBITING THE SPREAD OF MICROPLASTIC-

17 CONTAINING WASTES

18 No person shall apply biosolids, sewage sludge, domestic septage, or  
19 similar liquid wastes to the land of this State if they have been found to contain  
20 microplastics or PFAS under the testing required by section 6604b of this  
21 chapter.

1 Sec. 8. 6 V.S.A. § 5133 is amended to read:

2 § 5133. FOOD RESIDUALS; RULEMAKING

3 (a) The Secretary shall regulate the importation of food residuals or food  
4 processing residuals onto a farm. The Secretary shall prohibit importing food  
5 residuals or food processing residuals onto a farm if they are shown to contain  
6 microplastics or PFAS.

7 \* \* \*

8 Sec. 9. 6 V.S.A. § 369 is amended to read:

9 § 369. ADULTERATION

10 No person shall distribute an adulterated lime, plant amendment, plant  
11 biostimulant, soil amendment, or fertilizer product. A fertilizer, plant  
12 amendment, plant biostimulant, soil amendment, or lime shall be deemed to be  
13 adulterated if:

14 \* \* \*

15 (3) it contains crop seed or weed seed; ~~or~~

16 (4) it contains heavy metals, radioactive substances, or synthetic  
17 organics in amounts sufficient to render it injurious to livestock or human  
18 health when applied in accordance with directions for use on the label, or if  
19 adequate warning statements or directions for use that may be necessary to  
20 protect livestock or human health are not shown on the label; or

21 (5) it contains microplastics or PFAS.

1 Sec. 10. EFFECTIVE DATE

2 This act shall take effect on July 1, 2022.