

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resources, Fish, and Wildlife to which was
3 referred House Bill No. 560 entitled “An act relating to household products
4 containing hazardous substances” respectfully reports that it has considered the
5 same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. FINDINGS

8 The General Assembly finds that:

9 (1) Thousands of household products sold in the State contain
10 substances designated as hazardous under State or federal law.

11 (2) Vermont’s hazardous waste regulations establish specific
12 requirements for the management of hazardous waste, including a prohibition
13 on disposal in landfills, but Vermont’s hazardous waste regulations do not
14 apply to leftover household products that contain corrosive, toxic, ignitable, or
15 reactive ingredients.

16 (3) Leftover household products, known as household hazardous waste
17 (HHW), are regulated through a requirement that municipal solid waste
18 management entities (SWMEs) include provisions in solid waste
19 implementation plans for the management and diversion of unregulated
20 hazardous waste. The State solid waste management plan also requires the
21 SWMEs to each hold four HHW collection events every year.

1 (4) Many SWMEs offer many more than four HHW collection events
2 each year, and five of the SWMEs have established permanent facilities for the
3 regular collection of HHW.

4 (5) HHW collection events or permanent facilities are expensive to
5 operate and SWMEs spend approximately \$1.6 million a year to manage
6 HHW, costs that are subsequently passed on to the residents of Vermont
7 through taxes or disposal charges.

8 (6) Despite the diligent efforts of the SWMEs to divert HHW from
9 municipal solid waste disposed of in landfills, it is estimated that only
10 3.8 percent of residents statewide participate in HHW collection events or
11 dispose of HHW at HHW permanent facilities.

12 (7) As a result of the failure to divert HHW, it is estimated that 640 tons
13 or more per year of HHW are being disposed of in landfills as municipal solid
14 waste.

15 (8) There is general agreement among the SWMEs and the Agency of
16 Natural Resources that additional collection sites and educational and
17 informational activities are necessary to capture more of the HHW being
18 disposed of in landfills, but funding constraints are a current barrier to new
19 collection sites and educational and informational activities.

1 (9) HHW released into the environment can contaminate air,
2 groundwater, and surface waters, thereby posing a significant threat to the
3 environment and public health.

4 (10) To improve diversion of HHW from landfills, reduce the financial
5 burden on SWMEs and taxpayers of managing HHW, and lessen the
6 environmental and public health risk posed by improperly disposed of HHW,
7 the Secretary of Natural Resources should convene the Working Group on
8 Household Hazardous Waste to recommend how best to manage HHW in the
9 State.

10 (11) If the Working Group on Household Hazardous Waste fails to
11 provide recommendations, the State should implement a program to require the
12 manufacturers of household products containing a hazardous substance to
13 register their products sold in the State and pay a fee that will be used to fund
14 improved management of HHW in the State.

15 Sec. 2. AGENCY OF NATURAL RESOURCES WORKING GROUP ON
16 HOUSEHOLD HAZARDOUS WASTE

17 (a) The Secretary of Natural Resources shall convene the Working Group
18 on Household Hazardous Waste to review alternatives for the management of
19 household hazardous waste in the State. On or before January 1, 2020, the
20 Secretary of Natural Resources shall submit to the House Committee on
21 Natural Resources, Fish, and Wildlife and the Senate Committee on Natural

1 Resources and Energy a report recommending how the State should manage
2 household hazardous waste. The report shall include:

3 (1) a recommended method or system for regulating household
4 hazardous waste, including a summary of the basis for the Working Group’s
5 recommendation;

6 (2) a summary of how the recommended method or system would be
7 implemented, including the role that municipalities and the solid waste
8 management entities would have in the management of household hazardous
9 waste;

10 (3) a summary of the role of the Agency of Natural Resources in
11 implementing the recommended method or system;

12 (4) an estimate of the cost to implement the recommended method or
13 system for managing household hazardous waste; and

14 (5) legislative changes necessary to implement the recommended
15 method or system for managing household hazardous waste.

16 (b) As used in this section, “household hazardous waste” shall have the
17 same meaning as set forth in 10 V.S.A. § 6602, and shall include waste from
18 conditionally exempt generators.

1 Sec. 3. 10 V.S.A. chapter 159, subchapter 5 is added to read:

2 Subchapter 5. Household Products Containing Hazardous Substances

3 § 6691. DEFINITIONS

4 As used in this subchapter:

5 (1) “Agency” means the Agency of Natural Resources.

6 (2) “Commission” means the federal Consumer Product Safety

7 Commission.

8 (3) “Consumer product” means any product that is regularly used or
9 purchased to be used for personal, family, or household purposes.

10 (4) “Corrosive” means any substance that in contact with living tissue
11 will cause destruction of tissue by chemical action. “Corrosive” shall not refer
12 to action on inanimate surfaces.

13 (5) “Extremely flammable,” “flammable,” and “combustible” shall have
14 the same meanings as set forth in 16 C.F.R. § 1500.3(c)(6).

15 (6)(A) “Hazardous substance” means:

16 (i) any substance or mixture of substances that is toxic, corrosive,
17 an irritant, a strong sensitizer, flammable or combustible, or generates pressure
18 through decomposition, heat, or other means, if the substance or mixture of
19 substances may cause substantial personal injury or substantial illness during
20 or as a proximate result of any customary or reasonably foreseeable handling
21 or use, including reasonably foreseeable ingestion by children;

1 (ii) any substance that the Commission by regulation determines
2 to be a hazardous substance;

3 (iii) any radioactive substance that the Commission determines by
4 regulation is sufficiently hazardous to require labeling to protect public health;
5 or

6 (iv) any article that is not itself a pesticide within the meaning of
7 the Federal Insecticide, Fungicide, and Rodenticide Act but that is a hazardous
8 substance by reason of bearing or containing the pesticide.

9 (B) “Hazardous substance” shall not mean:

10 (i) a pesticide subject to the Federal Insecticide, Fungicide, and
11 Rodenticide Act;

12 (ii) a food, drug, or cosmetic subject to the Federal Food, Drug,
13 and Cosmetic Act;

14 (iii) a substance intended for use as a fuel when stored in a 20-
15 pound cylinder or other container and used in the heating, cooking, or
16 refrigeration system of a house; or

17 (iv) any source material, special nuclear material, or by-product
18 material as defined in the Atomic Energy Act of 1954, as amended, and
19 regulations issued under that act by the Atomic Energy Commission.

20 (7) “Highly toxic” means any substance that:

1 (A) produces death within 14 days in one-half or more than one-half
2 of a group of 10 or more laboratory white rats, each weighing between 200 and
3 300 grams, at a single dose of 50 milligrams or less per kilogram of body
4 weight, when orally administered; or

5 (B) produces death within 14 days in one-half or more than one-half
6 of a group of 10 or more laboratory white rats, each weighing between 200 and
7 300 grams, when inhaled continuously for a period of one hour or less at an
8 atmospheric concentration of 200 parts per million by volume or less of gas or
9 vapor or two milligrams per liter by volume or less of mist or dust, provided
10 that the concentration is likely to be encountered by humans when the
11 substance is used in any reasonably foreseeable manner.

12 (8) “Household hazardous waste” shall have the same meaning as set
13 forth in section 6602 of this title.

14 (9) “Household product containing a hazardous substance” means a
15 consumer product that includes a hazardous substance or that would be a
16 household hazardous waste if discarded. “Household product containing a
17 hazardous substance” shall not mean any of the following:

18 (A) architectural paint regulated under chapter 159, subchapter 4 of
19 this title;

20 (B) covered electronic devices regulated under chapter 166 of this
21 title;

1 (C) mercury-containing lamps regulated under chapter 164A of this
2 title;

3 (D) primary batteries regulated under chapter 168 of this title; or

4 (E) propane cylinders or tanks of more than one pound.

5 (10) “Irritant” means any substance, other than a corrosive, that on
6 immediate, prolonged, or repeated contact with normal living tissue will
7 induce a local inflammatory reaction.

8 (11) “Manufacturer” means a person who:

9 (A) manufactures or manufactured a household product containing a
10 hazardous substance under its own brand or label for sale in the State;

11 (B) sells in the State under its own brand or label a household
12 product containing a hazardous substance produced by another supplier;

13 (C) owns a brand that it licenses or licensed to another person for use
14 on a household product containing a hazardous substance sold in the State;

15 (D) imports into the United States for sale in the State a household
16 product containing a hazardous substance manufactured by a person without a
17 presence in the United States; or

18 (E) manufactures a household product containing a hazardous
19 substance for sale in the State without affixing a brand name.

20 (12) “Radioactive substance” means a substance that emits ionizing
21 radiation.

1 (13) “Strong sensitizer” means a substance that will cause on normal
2 living tissue through an allergic or photodynamic process a hypersensitivity
3 that becomes evident on reapplication of the same substance and that is
4 designated as a strong sensitizer by the Commission.

5 (14) “Toxic” means any substance, other than a radioactive substance,
6 that has the capacity to produce personal injury or illness to humans through
7 ingestion, inhalation, or absorption through any surface of the body.

8 § 6692. REGISTRATION OF HOUSEHOLD PRODUCTS CONTAINING A
9 HAZARDOUS SUBSTANCE

10 (a) Registration required; prohibition.

11 (1) A manufacturer shall not sell, offer for sale, distribute, or deliver to a
12 retailer for subsequent sale a household product containing a hazardous
13 substance in the State unless the manufacturer, on or before January 15 each
14 year, registers with the Secretary of Natural Resources all of the household
15 products containing a hazardous substance that it sells, distributes, or delivers
16 in the State when the household product has a unique universal product code or
17 European article number.

18 (2) A manufacturer initiating a business in the State shall file the
19 registration required under this section prior to selling, offering for sale,
20 distributing, or delivering a household product containing a hazardous
21 substance in the State.

1 (3) A manufacturer who annually sells, offers for sale, distributes, or
2 delivers in or into the State a household product containing a hazardous
3 substance with a total annual retail sales of less than \$5,000.00 shall be exempt
4 from the requirements of this subchapter.

5 (b) Registration information. The registration required under subsection (a)
6 of this section shall include:

7 (1) the name and address of the manufacturer that sells, distributes, or
8 delivers household products containing a hazardous substance in the State,
9 including the name and address of the manufacturer whose name will appear
10 on the label of the household product containing a hazardous substance, if
11 other than the registrant;

12 (2) the name of all of the household products containing a hazardous
13 substance that the manufacturer sells, distributes, or delivers in the State,
14 including the universal product code or European article number for each
15 product;

16 (3) the name of the hazardous substance in each of the household
17 products containing a hazardous substance that the manufacturer lists on the
18 registration; and

19 (4) additional information required by the Secretary by rule.

1 (c) Authority for additional information. The Secretary may require a
2 manufacturer submitting a registration to submit additional information related
3 to a product, including any potential health effects associated with a product.

4 (d) Registration fee; disposition. A manufacturer registering a household
5 product containing a hazardous substance shall pay an annual fee of \$100.00
6 for the registration of all of the products it sells, distributes, or delivers in the
7 State. The fees collected shall be deposited in the Waste Management
8 Assistance Fund.

9 § 6693. AGENCY RESPONSIBILITIES

10 (a) Registration enforcement. The Agency shall enforce the requirements
11 for registration under its authority set forth in chapter 201 of this title. Agency
12 enforcement shall include inspections of retailers to determine if household
13 products containing a hazardous substance are properly registered in the State.
14 A retailer shall not be subject to enforcement for sale of an unregistered
15 household product containing a hazardous substance.

16 (b) Disbursements of funds. The Agency shall disburse funds from the
17 Waste Management Assistance Fund under 24 V.S.A. § 6618 to solid waste
18 districts and municipalities for the costs associated with constructing,
19 administering, and operating household hazardous waste collection programs.

20 Sec. 4. 10 V.S.A. § 6618 is amended to read:

21 § 6618. WASTE MANAGEMENT ASSISTANCE FUND

1 (a) There is hereby created in the State Treasury a fund to be known as the
2 Waste Management Assistance Fund, to be expended by the Secretary of
3 Natural Resources. The Fund shall have ~~three~~ four accounts: one for Solid
4 Waste Management Assistance, one for Hazardous Waste Management
5 Assistance, ~~and~~ one for Electronic Waste Collection and Recycling Assistance,
6 and one for Household Products Containing Hazardous Substances. The
7 Hazardous Waste Management Assistance Account shall consist of a
8 percentage of the tax on hazardous waste under the provisions of 32 V.S.A.
9 chapter 237, as established by the Secretary, the toxics use reduction fees
10 under subsection 6628(j) of this title, and appropriations of the General
11 Assembly. In no event shall the amount of the hazardous waste tax ~~which~~ that
12 is deposited to the Hazardous Waste Management Assistance Account exceed
13 40 percent of the annual tax receipts. The Solid Waste Management
14 Assistance Account shall consist of the franchise tax on waste facilities
15 assessed under the provisions of 32 V.S.A. chapter 151, subchapter 13; and
16 appropriations of the General Assembly. The Electronic Waste Collection and
17 Recycling Account shall consist of the program and implementation fees
18 required under section 7553 of this title. The Household Products Containing
19 Hazardous Substances Account shall consist of the hazardous substances
20 registration fees assessed under section 6692 of this title. All balances in the
21 Fund accounts at the end of any fiscal year shall be carried forward and remain

1 a part of the Fund accounts, except as provided in subsection (e) of this
2 section. Interest earned by the Fund shall be deposited into the appropriate
3 Fund account. Disbursements from the Fund accounts shall be made by the
4 State Treasurer on warrants drawn by the Commissioner of Finance and
5 Management.

6 * * *

7 (f) The Secretary shall authorize disbursements from the Household
8 Products Containing Hazardous Substances Account for the purpose of
9 enhancing the management of household products containing hazardous
10 substances in accordance with subchapter 5 of this chapter, including
11 disbursements for:

12 (1) All costs incurred by solid waste management entities and
13 municipalities to construct, administer, and operate household hazardous waste
14 collection programs, including one-day collection events and permanent
15 collection programs. All costs include the construction of necessary
16 infrastructure, maintenance, operating costs, transportation, disposal, and
17 outreach and education. The Secretary annually shall allocate at least 50
18 percent of the hazardous substances registration fees collected under section
19 6692 of this title for the purposes of this subdivision.

1 players; electronic game consoles; printers; fax machines; wireless telephones;
2 telephones; answering machines; videocassette recorders; digital versatile disc
3 players; digital converter boxes; stereo equipment; and power supply cords (as
4 used to charge electronic devices).

5 * * *

6 (12) Household products containing hazardous substances after
7 January 15, 2021.

8 Sec. 6. EFFECTIVE DATE; IMPLEMENTATION

9 (a) This section and Secs. 1 (findings) and 2 (ANR Working Group on
10 Household Hazardous Waste) shall take effect on passage.

11 (b) Secs. 3-5 (registration of household products containing hazardous
12 substances) shall take effect on January 1, 2021, provided that the annual
13 registration required under 10 V.S.A. § 6692 shall not be required until
14 July 15, 2021.

15
16 (Committee vote: _____)

17 _____

18 Representative _____

19 FOR THE COMMITTEE