
SENATE BILL 6247

State of Washington 52nd Legislature 1992 Regular Session

By Senators Murray, Wojahn, Rinehart, M. Kreidler and West

Read first time 01/22/92. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to toxic household products; adding a new chapter
2 to Title 69 RCW; prescribing penalties; and providing an effective
3 date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) There is a significant danger that small children will ingest
7 toxic household products.

8 (2) Most poisonings occur while the product is in use, rather than
9 when stored.

10 (3) Many toxic household products are exempt from the child-
11 resistant safety packaging laws.

12 (4) The national safety council, the American medical association,
13 and the American association of poison control centers have found that
14 evidence exists that the addition of nontoxic bittering agents to toxic

1 household products make these products so bitter that many children
2 rejected the products upon, or shortly after, tasting them. These
3 organizations have urged manufacturers of toxic household products to
4 add nontoxic bittering agents to their products, providing another
5 means to prevent or mitigate severe poisonings.

6 The legislature further finds that manufacturers of extremely toxic
7 household products should be required to use every means possible to
8 protect vulnerable individuals from accidental poisonings, including
9 the use of appropriate labels which depict clear safety warnings,
10 product use, and storage instructions, child-resistant safety closures,
11 and a bittering agent, whenever possible.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Board" means the board of pharmacy.

15 (2) "Household" means:

16 (a) Any structure, vehicle, article, surface, or area associated
17 with a residence including, but not limited to, a residence, yard,
18 nonagricultural outbuildings, noncommercial greenhouses, pleasure
19 boats, and recreational vehicles; or

20 (b) Any preschool as defined in RCW 28A.215.310 or day care center
21 licensed under chapter 74.15 RCW.

22 (3) "Liquid" means a liquid preparation that flows readily in its
23 natural state at room temperature containing one or more soluble
24 chemical substances usually dissolved in water or other solvents.
25 "Solvent" includes, but is not limited to, aqueous acids (acetic,
26 hydrochloric, and nitric acids) and nonaqueous solutions (spirits,
27 liniments).

28 (4) "Toxic household product" means any substance or mixture of
29 substances that are customarily produced or distributed for sale for

1 use in or about the household or on household pets, or are customarily
2 stored by individuals in or about the household, and the substance or
3 mixture of substances have the capacity to produce significant personal
4 injury or illness to humans when orally ingested in moderate amounts.

5 "Toxic household product" does not include any of the following:

6 (a) Products that contain hydrocarbons in which the only known
7 toxicity is through lung aspiration of minute amounts and not
8 absorption through the stomach.

9 (b) Products that are intended for use in or around the mouth or
10 are reasonably expected to be used orally or ingested.

11 (c) Economic poisons packaged in containers of more than one gallon
12 liquid or more than ten pounds dry weight.

13 (d) With the exception of products containing 2.5 percent or more
14 by weight camphor in liquid formulations, any drug, as defined in the
15 federal food, drug, and cosmetic act, 21 U.S.C. Sec. 301 et seq., and
16 chapter 69.04 RCW.

17 (e) Products that, immediately upon ingestion, cause severe damage
18 or irritation to the mouth or tongue, or are fatal upon a single taste.

19 (f) Products packaged in pressurized aerosol containers.

20 (g) Products containing ethylene glycol that are described in
21 paragraphs (7), (9), and (38) or subdivision (a) of Section 1500.83 of
22 Part 1500 of Title 16 of the Code of Federal Regulations.

23 (h) Products regulated under chapter 15.58 or 49.70 RCW.

24 NEW SECTION. **Sec. 3.** No product may be sold in this state
25 that the board has determined not to comply with the provisions of this
26 chapter.

27 NEW SECTION. **Sec. 4.** (1) Except as provided in subsection (2)
28 of this section, any toxic household product that contains any

1 substance included in the list determined under section 5(1) of this
2 act, and manufactured on and after January 1, 1994, and manufactured or
3 sold in Washington, shall include within the product a bittering agent
4 that is nontoxic within the product, in a concentration so as to render
5 the product aversively bitter, unless the product is packaged with
6 child-resistant safety closures in accordance with the federal poison
7 prevention packaging act of 1970, 15 U.S.C. Sec. 1471, et seq., and
8 regulations adopted thereunder, 16 C.F.R. 1700.1 et seq.

9 (2) Any toxic household product that (a) is required to be
10 registered with the environmental protection agency under the federal
11 insecticide, fungicide, and rodenticide act, 7 U.S.C. Sec. 135 et seq.,
12 (b) is formulated for outdoor or food use economic poisons purposes,
13 and (c) will be reformulated to include a bittering agent, shall comply
14 with subsection (1) of this section no later than two years from the
15 date when the environmental protection agency has approved a bittering
16 agent for use in outdoor or food use economic poisons.

17 NEW SECTION. **Sec. 5.** (1) Manufacturers of toxic household
18 products that contain any of the substances in a list determined by the
19 board of pharmacy by rule shall comply with section 4 of this act,
20 unless the manufacturer documents to the satisfaction of the board that
21 there are no signs of toxicity at an oral dose of five grams of product
22 per kilogram of body weight, or the product's container, when full,
23 contains a dose less than that which has previously been documented by
24 the manufacturer to be nontoxic.

25 (2) The board, when determining the list of substances in
26 subsection (1) of this section or adding or deleting substances from
27 that list, shall consider:

28 (a) Similar requirements in other states for the purpose of
29 effecting uniform products;

1 (b) The inclusion of the following substances in the list:

2 (i) Acetonitrile;

3 (ii) Sodium bromate (600 mg or more);

4 (iii) Potassium bromate (50 mg or more);

5 (iv) Carbamates (used in insecticide formulations);

6 (v) Chlorinated hydrocarbon insecticides and solvents (5 percent or
7 more by weight);

8 (vi) Cyanide;

9 (vii) Diquat;

10 (viii) Ethylene glycol (10 percent or more by weight);

11 (ix) Organophosphate insecticides;

12 (x) Metaldehyde;

13 (xi) Methanol (methyl alcohol) (4 percent or more by weight);

14 (xii) Phenol (10 percent or more by weight);

15 (xiii) Pine oil, in concentrations of 20 percent or more;

16 (xiv) Strychnine formulations.

17 (3) Due to the lack of long-term testing results for dermal
18 exposure of available bittering agents, manufacturers of toxic
19 household products that contain any of the following substances in
20 liquid formulations shall, in lieu of complying with section 4 of this
21 act, package their products with child-resistant safety closures in
22 accordance with the federal poison prevention packaging act of 1970, 15
23 U.S.C. Sec. 1471 et seq., and regulations adopted thereunder, 16 C.F.R.
24 1700.1 et seq.:

25 (a) Camphor (2.5 percent or more by weight).

26 (b) Diethyltoluamide (5 percent or more by weight).

27 (c) Ethylhexanediol (5 percent or more by weight).

28 NEW SECTION. **Sec. 6.** (1) Whenever the board finds, or has
29 probable cause to believe, that a product subject to this chapter is in

1 violation of this chapter, and that the product's removal from retail
2 shelf space, and the maintenance of the removal, of a product under
3 this section is required to protect the consuming or purchasing public,
4 or to protect the public from injury, or possible injury, the board is
5 hereby authorized to order the product's removal from retail shelf
6 space and the maintenance of the removal. If, after the product has
7 been removed, the board finds that the product does not involve a
8 violation of this chapter, the order for removal shall be rescinded.

9 (2) The board is immune from civil or criminal liability for acts
10 under subsection (1) of this section, except for wanton and willful
11 misconduct.

12 NEW SECTION. **Sec. 7.** (1) Any person may bring a civil action
13 in a court of competent jurisdiction to enforce the requirements of
14 this chapter. The court may grant injunctive relief in any action
15 brought pursuant to this section.

16 (2) Whenever the person bringing the action pursuant to this
17 section is the prevailing party, he or she shall be awarded attorneys'
18 fees and costs by the court.

19 NEW SECTION. **Sec. 8.** In any action brought under section 7 of
20 this act, any person who violates any provision of this chapter is
21 liable for a civil penalty not to exceed five thousand dollars for each
22 day of violation, which shall be assessed and recovered in a civil
23 action brought in the name of the people of the state of Washington by
24 the attorney general in any court of competent jurisdiction.

25 NEW SECTION. **Sec. 9.** A violation of this chapter is
26 punishable by a fine of up to five thousand dollars. Each product that
27 fails to conform with this chapter is a separate violation. In

1 addition to a fine, the board may recover all costs incurred when
2 curing a violation of this chapter.

3 NEW SECTION. **Sec. 10.** Violation of this chapter is a matter
4 affecting the public interest for the purpose of applying chapter 19.86
5 RCW. Failure to comply with this chapter is not reasonable in relation
6 to the development and preservation of business. A violation of this
7 chapter constitutes an unfair or deceptive act or practice in trade or
8 commerce for the purpose of applying chapter 19.86 RCW.

9 NEW SECTION. **Sec. 11.** The board may waive the date of
10 compliance under this chapter for good cause, as determined by the
11 board. The date may only be extended under this section for a maximum
12 of one year.

13 NEW SECTION. **Sec. 12.** Before January 1, 2000, the board shall
14 consult with the state toxicologist to determine whether the federal
15 government has established a legally enforceable system that is
16 substantially equivalent to the requirements of this chapter, which
17 governs toxic household products. To be substantially equivalent, the
18 effective dates for implementation of the federal system must be the
19 same or earlier than the dates of implementation set out in the state
20 system. If the board determines that the federal system is
21 substantially equivalent to the state system, this chapter will cease
22 to exist on January 1, 2000. If the board determines that the federal
23 system is substantially equivalent, except that the federal dates for
24 implementation are later than the Washington state dates, this chapter
25 will cease to exist when the federal system is implemented.

1 NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act shall
2 constitute a new chapter in Title 69 RCW.

3 NEW SECTION. **Sec. 14.** This act shall take effect January 1,
4 1994.