
HOUSE BILL 2821

State of Washington 62nd Legislature 2012 1st Special Session

By Representatives Dickerson, Hudgins, Upthegrove, Maxwell, Kagi, Dunshee, Fitzgibbon, Jinkins, Hunter, Lias, Appleton, Tharinger, Pedersen, and Hansen

Read first time 03/16/12. Referred to Committee on General Government Appropriations & Oversight.

1 AN ACT Relating to children's safe products; amending RCW
2 70.240.010; and adding new sections to chapter 70.240 RCW.

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

4 **Sec. 1.** RCW 70.240.010 and 2008 c 288 s 2 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Children's cosmetics" means cosmetics that are made for,
9 marketed for use by, or marketed to children under the age of twelve.
10 "Children's cosmetics" includes cosmetics that meet any of the
11 following conditions:

12 (a) Represented in its packaging, display, or advertising as
13 appropriate for use by children;

14 (b) Sold in conjunction with, attached to, or packaged together
15 with other products that are packaged, displayed, or advertised as
16 appropriate for use by children; or

17 (c) Sold in any of the following:

18 (i) Retail store, catalogue, or online web site, in which a person

1 exclusively offers for sale products that are packaged, displayed, or
2 advertised as appropriate for use by children; or
3 (ii) A discrete portion of a retail store, catalogue, or online web
4 site, in which a person offers for sale products that are packaged,
5 displayed, or advertised as appropriate for use by children.
6 (2) "Children's jewelry" means jewelry that is made for, marketed
7 for use by, or marketed to children under the age of twelve.
8 "Children's jewelry" includes jewelry that meets any of the following
9 conditions:
10 (a) Represented in its packaging, display, or advertising as
11 appropriate for use by children under the age of twelve;
12 (b) Sold in conjunction with, attached to, or packaged together
13 with other products that are packaged, displayed, or advertised as
14 appropriate for use by children;
15 (c) Sized for children and not intended for use by adults; or
16 (d) Sold in any of the following:
17 (i) A vending machine;
18 (ii) Retail store, catalogue, or online web site, in which a person
19 exclusively offers for sale products that are packaged, displayed, or
20 advertised as appropriate for use by children; or
21 (iii) A discrete portion of a retail store, catalogue, or online
22 web site, in which a person offers for sale products that are packaged,
23 displayed, or advertised as appropriate for use by children.
24 (3)(a) "Children's product" includes any of the following:
25 (i) Toys;
26 (ii) Children's cosmetics;
27 (iii) Children's jewelry;
28 (iv) A product designed or intended by the manufacturer to help a
29 child with sucking or teething, to facilitate sleep, relaxation, or the
30 feeding of a child, or to be worn as clothing by children; or
31 (v) Child car seats.
32 (b) "Children's product" does not include the following:
33 (i) Batteries;
34 (ii) Slings and catapults;
35 (iii) Sets of darts with metallic points;
36 (iv) Toy steam engines;
37 (v) Bicycles and tricycles;

1 (vi) Video toys that can be connected to a video screen and are
2 operated at a nominal voltage exceeding twenty-four volts;

3 (vii) Chemistry sets;

4 (viii) Consumer electronic products, including but not limited to
5 personal computers, audio and video equipment, calculators, wireless
6 phones, game consoles, and handheld devices incorporating a video
7 screen, used to access interactive software and their associated
8 peripherals;

9 (ix) Interactive software, intended for leisure and entertainment,
10 such as computer games, and their storage media, such as compact disks;

11 (x) BB guns, pellet guns, and air rifles;

12 (xi) Snow sporting equipment, including skis, poles, boots, snow
13 boards, sleds, and bindings;

14 (xii) Sporting equipment, including, but not limited to bats,
15 balls, gloves, sticks, pucks, and pads;

16 (xiii) Roller skates;

17 (xiv) Scooters;

18 (xv) Model rockets;

19 (xvi) Athletic shoes with cleats or spikes; and

20 (xvii) Pocket knives and multitools.

21 (4) "Cosmetics" includes articles intended to be rubbed, poured,
22 sprinkled, or sprayed on, introduced into, or otherwise applied to the
23 human body or any part thereof for cleansing, beautifying, promoting
24 attractiveness, or altering the appearance, and articles intended for
25 use as a component of such an article. "Cosmetics" does not include
26 soap, dietary supplements, or food and drugs approved by the United
27 States food and drug administration.

28 (5) "Department" means the department of ecology.

29 (6) "High priority chemical" means a chemical identified by a state
30 agency, federal agency, or accredited research university, or other
31 scientific evidence deemed authoritative by the department on the basis
32 of credible scientific evidence as known to do one or more of the
33 following:

34 (a) Harm the normal development of a fetus or child or cause other
35 developmental toxicity;

36 (b) Cause cancer, genetic damage, or reproductive harm;

37 (c) Disrupt the endocrine system;

1 (d) Damage the nervous system, immune system, or organs or cause
2 other systemic toxicity;

3 (e) Be persistent, bioaccumulative, and toxic; or

4 (f) Be very persistent and very bioaccumulative.

5 (7) "Manufacturer" includes any person, firm, association,
6 partnership, corporation, governmental entity, organization, or joint
7 venture that produces a children's product or an importer or domestic
8 distributor of a children's product. For the purposes of this
9 subsection, "importer" means the owner of the children's product.

10 (8) "Phthalates" means di-(2-ethylhexyl) phthalate (DEHP), dibutyl
11 phthalate (DBP), benzyl butyl phthalate (BBP), diisonoyl phthalate
12 (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP).

13 (9) "Toy" means a product designed or intended by the manufacturer
14 to be used by a child at play.

15 (10) "Trade association" means a membership organization of persons
16 engaging in a similar or related line of commerce, organized to promote
17 and improve business conditions in that line of commerce and not to
18 engage in a regular business of a kind ordinarily carried on for
19 profit.

20 (11) "Very bioaccumulative" means having a bioconcentration factor
21 or bioaccumulation factor greater than or equal to five thousand, or if
22 neither are available, having a log Kow greater than 5.0.

23 (12) "Very persistent" means having a half-life greater than or
24 equal to one of the following:

25 (a) A half-life in soil or sediment of greater than one hundred
26 eighty days;

27 (b) A half-life greater than or equal to sixty days in water or
28 evidence of long-range transport.

29 (13) "TRIS" means tris(2-chloroethyl) phosphate, chemical abstracts
30 service number 115-96-8, as of the effective date of this section and
31 tris(1,3-dichloro-2-propyl)phosphate, chemical abstracts service number
32 13674-87-8, as of the effective date of this section.

33 NEW SECTION. Sec. 2. A new section is added to chapter 70.240 RCW
34 to read as follows:

35 (1) Except as provided in subsection (2) of this section, beginning
36 July 1, 2013, no manufacturer, wholesaler, or retailer may manufacture,

1 knowingly sell, offer for sale, distribute for sale, or distribute for
2 use in this state a children's product containing TRIS in amounts
3 greater than one hundred parts per million in any component.

4 (2) Manufacturers, wholesalers, or retailers may sell children's
5 products containing TRIS until July 1, 2014, if manufacturers of such
6 products conduct and submit to the department an alternatives
7 assessment by July 1, 2013, as provided in section 3 of this act.

8 (3)(a) The sale or purchase of any previously owned product
9 containing TRIS made in casual or isolated sales as defined in RCW
10 82.04.040, or by nonprofit organizations, is exempt from subsection (1)
11 of this section.

12 (b) The sale or use of recycled materials containing less than .01
13 percent of TRIS is exempt from subsection (1) of this section.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.240 RCW
15 to read as follows:

16 (1) Manufacturers conducting an alternatives assessment must
17 identify alternatives for consideration that reduce or eliminate the
18 use of and potential for children's exposure to chemicals of high
19 concern for children using:

20 (a) The United States environmental protection agency's design for
21 the environment program alternatives assessment criteria for hazard
22 evaluation, version 2.0, August 2011;

23 (b) The alternatives assessment framework of the Lowell center for
24 sustainable production, version 1.0, July 2006, following the
25 alternatives assessment processes and addressing the elements in each
26 evaluation module; or

27 (c) An alternatives assessment for the chemical of high concern for
28 children and each potential alternative that includes the following
29 elements:

30 (i) Chemical names and chemical abstracts service registry numbers;

31 (ii) An assessment of whether, based on credible scientific
32 evidence, the alternative demonstrates the potential to do one or more
33 of the following:

34 (A) Harm the normal development of a fetus or child or cause other
35 developmental toxicity;

36 (B) Cause cancer or genetic damage;

37 (C) Cause reproductive toxicity;

- 1 (D) Disrupt the endocrine system;
- 2 (E) Damage the nervous system, immune system, or organs or cause
3 other systemic toxicity;
- 4 (F) Cause sensitization and immune system response;
- 5 (G) Cause negative ecological impacts;
- 6 (H) Be persistent, bioaccumulative, and toxic; or
- 7 (I) Be very persistent and very bioaccumulative;
- 8 (iii) Available information or data, based on credible scientific
9 evidence regarding:
- 10 (A) The degree of toxicity, including dose response studies; and
- 11 (B) Potential routes of exposure to children through which the
12 chemical or alternative may cause each effect identified in (c)(ii)(A)
13 through (F) of this subsection;
- 14 (iv) Information on performance and functionality of the potential
15 alternatives in products and materials addressed in the alternatives
16 assessment; and
- 17 (v) Opportunities for product reformulation, chemical substitution,
18 product redesign, or manufacturing process redesign.
- 19 (2) The alternatives assessment must include: (a) A comparison
20 among alternatives and chemicals of high concern for children for the
21 elements required in subsection (1)(c)(i) through (v) of this section;
22 (b) a description of the criteria and assumptions used to compare
23 alternatives, including identification of data gaps; and (c) an
24 explanation of the findings and conclusions of the supporting data for
25 the alternatives assessment.
- 26 (3) The manufacturer may provide any additional information that
27 assisted in evaluating alternatives or deemed by the manufacturer
28 relevant to the alternatives assessment, such as: Cost and
29 availability of potential alternatives; purchase price differential
30 between the product containing chemicals of high concern for children
31 and the alternative; conditions of use; chemical management; and
32 technical feasibility.

33 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.240 RCW
34 to read as follows:

35 The department must provide technical assistance to any
36 manufacturer conducting an alternatives assessment that requests
37 assistance. Technical assistance includes providing: Alternatives

1 assessments previously submitted to the department; existing resources
2 and tools for conducting alternatives assessments; information existing
3 within the department gathered from literature reviews; informal
4 manufacturer's surveys; and information from the interstate chemicals
5 clearinghouse.

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