1294-S AMH SPRI LIPS 017

**SHB 1294** - H AMD **135**

By Representative Springer

**ADOPTED 03/06/2013**

Strike everything after the enacting clause and insert the following:

"**Sec.** RCW 70.240.020 and 2008 c 288 s 3 are each amended to read as follows:

(1) Beginning July 1, 2009, no manufacturer, wholesaler, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state a children's product or product component containing the following:

(a) Except as provided in subsection (2) of this section, lead at more than .009 percent by weight (ninety parts per million);

(b) Cadmium at more than .004 percent by weight (forty parts per million); or

(c) Phthalates, individually or in combination, at more than 0.10 percent by weight (one thousand parts per million).

(2) Beginning July 1, 2015, no manufacturer, wholesaler, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state children's products or residential upholstered furniture, as defined in RCW 70.76.010, containing TDCPP or TCEP in amounts greater than one hundred parts per million in any product component.

(3) If determined feasible for manufacturers to achieve and necessary to protect children's health, the department, in consultation with the department of health, may by rule require that no manufacturer, wholesaler, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state a children's product or product component containing lead at more than .004 percent by weight (forty parts per million).

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

(1) Beginning July 1, 2015, no manufacturer, wholesaler, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale or distribute for use in this state, residential upholstered furniture, as defined in RCW 70.76.010, or children's products containing a flame retardant not included in RCW 70.240.020 in any product component in amounts greater than one hundred parts per million identified by the department as a high priority chemical of high concern for children as required under RCW 70.240.030.

(2) Except for TDCPP and TCEP, the department shall grant an exemption to restrictions under subsection (1) of this section for a length of time requested by the manufacturer, but not to exceed two years, if the manufacturer of residential upholstered furniture or children's products demonstrates, and the department determines, that there is no technically feasible safer alternative to meet applicable Washington state or federal fire safety standards.

(3) Beginning July 1, 2015, at the request of the department, a manufacturer of residential upholstered furniture or children's products shall, within sixty days of the request, submit a certificate of compliance stating that the product or product component meets the requirements of subsection (1) of this section. A manufacturer required under any other state statute to provide a certificate of compliance may develop one certificate containing all required information.

(4) The certificate of compliance must include the following:

(a) Chemical names and chemical abstracts service registry numbers for all chemicals present in the product or product component that act as flame retardants;

(b) The specific basis upon which an exemption, if applicable, is claimed; and

(c) The signature of an authorized official of the manufacturing company.

(5) A manufacturer completing a certificate of compliance shall keep a copy of the certificate on file for as long as the product or product component contains flame retardants. If a manufacturer ceases to sell or distribute products or product components containing flame retardants, the manufacturer must retain the certificate on file for three years from the date of the last sale or distribution.

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

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

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

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

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

(c) Sold in any of the following:

(i) Retail store, catalogue, or online web site, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

(ii) A discrete portion of a retail store, catalogue, or online web site, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(2) "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to children under the age of twelve. "Children's jewelry" includes jewelry that meets any of the following conditions:

(a) Represented in its packaging, display, or advertising as appropriate for use by children under the age of twelve;

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

(c) Sized for children and not intended for use by adults; or

(d) Sold in any of the following:

(i) A vending machine;

(ii) Retail store, catalogue, or online web site, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

(iii) A discrete portion of a retail store, catalogue, or online web site, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(3)(a) "Children's product" includes any of the following:

(i) Toys;

(ii) Children's cosmetics;

(iii) Children's jewelry;

(iv) A product designed or intended by the manufacturer to help a child with sucking or teething, to facilitate sleep, relaxation, or the feeding of a child, or to be worn as clothing by children; or

(v) Child car seats.

(b) "Children's product" does not include the following:

(i) Batteries;

(ii) Slings and catapults;

(iii) Sets of darts with metallic points;

(iv) Toy steam engines;

(v) Bicycles and tricycles;

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

(vii) Chemistry sets;

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

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

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

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

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

(xiii) Roller skates;

(xiv) Scooters;

(xv) Model rockets;

(xvi) Athletic shoes with cleats or spikes; and

(xvii) Pocket knives and multitools.

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

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

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

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

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

(c) Disrupt the endocrine system;

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

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

(f) Be very persistent and very bioaccumulative.

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

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

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

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

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

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

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

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

(12) "TDCPP" means the chemical (tris(1,3-dichloro-2-propyl)phosphate); chemical abstracts service number 13674-87-8, as of the effective date of this section.

(13) "TCEP" means the chemical (tris(2-chloroethyl)phosphate); chemical abstracts service number 115-96-8, as of the effective date of this section."

Correct the title.

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|  | EFFECT:   Retains the prohibition on the use of TDCPP and TCEP in children's products or residential upholstered furniture in amounts greater than 100 parts per million beginning July 1, 2015. Restricts the use of flame retardants on the list of Chemicals of High Concern for Children in amounts greater than 100 parts per million in children's products or residential upholstered furniture. Directs the Department of Ecology to grant an exemption to a manufacturer on the restrictions on the use of Chemicals of High Concern for Children if a manufacturer demonstrates that a safer alternative to the flame retardant does not exist. Requires manufacturers to submit a certificate of compliance to the Department of Ecology which includes certain information about the chemicals contained in the manufacturer's products, as well as a basis for an exemption, if claimed, from restrictions on the use of flame retardant chemicals. Allows for the assessment of fines of up to $5,000 for all violations by manufacturers, rather than $1,000 for initial violations and $5,000 for subsequent violations. |

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