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**Select Committee on  
Environmental Health**

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**HB 2647**

**Brief Description:** Regarding the children's safe products act.

**Sponsors:** Representatives Dickerson, Hudgins, Hunt, Morrell, Pedersen, Williams, Cody, Green, Campbell, VanDeWege, Hasegawa, Roberts, Loomis, Upthegrove, Liias, Hunter, Chase, Smith, McIntire, Barlow, Conway, Priest, Schual-Berke, Simpson, Kenney, Goodman, Sells, Rolfes, Darneille and Lantz.

**Brief Summary of Bill**

- Prohibits all persons from manufacturing, selling, offering for sale, distributing for sale, or distributing for use a children's product or product component that contains a certain concentration of lead, cadmium, or phthalates.
- Requires the Department of Ecology to identify high priority chemicals and, of those, chemicals that are of high concern for children.
- Requires manufacturers to file an annual notice with the Department of Ecology regarding chemicals of high concern found in their children's products and to notify retailers of recalls of their children's products.
- Authorizes the Secretary of Health to establish and maintain an education campaign regarding chemicals of high concern for children.

**Hearing Date:** 1/23/08

**Staff:** Ashley Pedersen (786-7303).

**Background:**

**Federal Laws, Regulations, and Guidelines**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Federal Hazardous Substances Act (FHSA), 15 USC 1261-1278, grants the Consumer Product Safety Commission (CPSC) the authority to promulgate regulations to protect consumers from products containing hazardous substances. The CPSC has restricted the amount of lead in paint to a maximum of 600 ppm. This restriction applies to consumer products (defined in section 3(a)(1) of the Consumer Product Safety Act), toys, furniture and products sold to consumers for use in homes, schools, parks, hospitals and other areas. The CPSC is charged with protecting the public from unreasonable risks of serious injury or death from more than 15,000 types of consumer products under the agency's jurisdiction. A part of CPSC's mission is to inform the public about product hazards and to issue notices of public recalls. The Consumer Product Safety Commission issues recalls for toys.

Cosmetics marketed in the United States are regulated by the Food and Drug Administration (FDA) pursuant to the Federal Food, Drug, and Cosmetic Act (FDCA) and the Fair Packaging and Labeling Act (FPLA). The FDCA prohibits the marketing of adulterated or misbranded cosmetics in interstate commerce. Violations of the FDCA involving product composition whether they result from ingredients, contaminants, processing, packaging, or shipping and handling cause cosmetics to be adulterated and subject to regulatory action. In addition, under the authority of the FPLA, the FDA requires an ingredient declaration on the cosmetic products sold at the retail level to consumers.

### **Lead**

According to the Centers for Disease Control and Prevention's International Chemical Safety Card for lead, lead can be absorbed into the body by inhalation and by ingestion. Long term or repeated exposure to lead may have effects on the blood bone marrow central nervous system, peripheral nervous system, kidneys, resulting in anemia, encephalopathy (e.g., convulsions), peripheral nerve disease, abdominal cramps and kidney impairment. Long term or repeated exposure to lead may cause toxicity to human reproduction or development.

The American Academy of Pediatrics recommends a level of 40 ppm of lead as the maximum that should be allowed in children's products. Lead is often found in brightly colored wood and vinyl toys, and imported jewelry.

### **Cadmium**

According to the Centers for Disease Control and Prevention's International Chemical Safety Card for cadmium, cadmium can be absorbed into the body by inhalation of its aerosol and by ingestion. Cadmium exposure is associated in animal studies with developmental effects, including possible decreases in birth weight, delayed sensory-motor development, hormonal effects, and altered behavior. Cadmium can cause adverse effects on the kidney, lung and intestines. Cadmium is classified as a known human carcinogen, associated with lung and prostate cancer. Exposure to cadmium can result in bone loss and increased blood pressure. Acute toxicity from ingestion of high levels of cadmium can result in abdominal pain, nausea, vomiting and death.

There are no restrictions on cadmium in children's products in the United States. The United States Environmental Protection Agency has set a limit of five parts of cadmium per billion parts of drinking water (5 ppb). The Food and Drug Administration limits the amount of cadmium in food colors to 15 parts per million (15 ppm). The Occupational Safety and Health Administration

limits workplace air to 100 micrograms cadmium per cubic meter (100&micro;g/m<sup>3</sup>) as cadmium fumes and 200 mg/m<sup>3</sup> as cadmium dust.

### **Phthalates**

Phthalates are a group of chemicals used in hundreds of products, such as toys, vinyl flooring and wall coverings, detergents, lubricating oils, food packaging, pharmaceuticals, blood bags and tubing, and personal care products, such as nail polish, hair sprays, soaps, and shampoos. Phthalates are plasticizers that are added to polyvinyl chloride (PVC) products to impart flexibility and durability.

Phthalates are widely detected in human blood and urine samples. According to the Centers for Disease Control, phthalates are found in Americans of all ages, sizes, and races. A 2005 study from the Centers for Disease Control indicates that women are slightly more exposed than men, and younger children (ages 6-11) are more exposed than older children (ages 12-19 or 20). Phthalates are animal carcinogens and can cause fetal death, malformations, and reproductive toxicity in laboratory animals. Nondietary ingestion of phthalates can occur when children mouth, suck, or chew on phthalate-containing toys or other objects

### **Summary of Bill:**

Beginning January 1, 2009, all persons are prohibited from manufacturing, selling, offering for sale, distributing for sale, or distributing for use a children's product or product component that contains:

- lead or cadmium at more than .004 percent by weight (40 parts per million); or
- phthalates at more than 0.1 percent by weight (100 parts per million).

### **Department of Ecology**

The Department of Ecology must:

- identify high priority chemicals that are of high concern for children (by January 1, 2009);
- identify children's products or product categories that contain chemicals of high concern for children (by January 1, 2009);
- prepare and distribute information to in-state and out-of-state manufacturers to assist them in identifying prohibited products (by January 1, 2009);
- assist in-state retailers in identifying prohibited products;
- develop and publish a web site providing consumers with information regard the high priority chemicals and safer alternatives; and
- submit a report on chemicals of high concern to the appropriate standing committees of the Legislature.

High priority chemicals that are of high concern for children are determined based on a consideration of a child's or developing fetus's potential for exposure to each chemical. The list must include chemicals that have been found to be in human umbilical cord blood, human breast milk, human urine, or other bodily tissues or fluids, or to be present in household dust, indoor air, drinking water, or elsewhere in home environment. This list must also include chemical that have been added to or present in consumer products used or present in the home.

The Department of Ecology's report to the Legislature must include policy options regarding addressing children's products that contain chemicals of high concern. The report must also include recommendations for additional ways to inform consumers about toxic chemicals in products.

The Department of Ecology may adopt rules implementing, administering, and enforcing this bill.

### **Manufacturers**

Beginning six months after a chemical has been identified as a chemical of high concern, manufacturers must notify the Department of Ecology of its products that contain a high priority chemical. This notice must be filed annually and must include:

- the name and chemical abstracts service registry number of the chemical;
- a description of the product or product component;
- a description of the function of the chemical in the product;
- the amount of the chemical in the product; and
- the name and address of the manufacturer and contact information.

The Department of Ecology may require manufacturers to electronically file their annual notice.

No less than 90 days prior to the effective date of the restrictions, manufacturers must notify persons that sell its products about the provisions of this chapter. Manufacturers must recall products and reimburse retailers and purchasers for products sold in prohibition of this chapter.

Manufactures in violation of this chapter may be subject to a civil penalty of up to \$5,000 per violation, and of up to \$10,000 for each repeat offense.

### **Retailers**

Retailers that unknowingly sell prohibited products are not liable under this chapter.

### **Secretary of Health**

The Secretary of Health is authorized to establish a product safety education campaign to promote greater awareness of infants and children products that contain chemicals of high concern for children.

**Appropriation:** None.

**Fiscal Note:** Requested on January 17, 2008.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.