

HB 2647-S2.E - DIGEST

(DIGEST AS ENACTED)

Provides that, 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: (1) Except as provided in this act, lead at more than .009 percent by weight (ninety parts per million);

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

(3) Phthalates, individually or in combination, at more than .01 percent by weight (one hundred parts per million).

Requires, by January 1, 2009, the department of ecology to identify high priority chemicals that are of high concern for children after considering a child's or developing fetus's potential for exposure to each chemical.

Requires, beginning six months after the department has adopted rules under this act, a manufacturer of a children's product, or a trade organization on behalf of its member manufacturers, to provide notice to the department that the manufacturer's product contains a high priority chemical.

Requires a manufacturer of products that are restricted under this act to notify persons that sell the manufacturer's products in this state about the provisions of this act no less than ninety days prior to the effective date of the restrictions.

VETO MESSAGE ON E2SHB 2647

April 1, 2008

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 1 and Section 8, Engrossed Second Substitute House Bill 2647 entitled:

"AN ACT Relating to the children's safe products act."

Section 1 is an intent section that affirms the importance of regulating toxic chemicals in children's products. However, this section could be read to create obligations that are beyond what state government can deliver.

Section 8 requires the Department of Ecology to adopt a rule that identifies chemicals of high concern for children by

January 1, 2010. This section is premature and preempts the process identified in Section 4. Section 4 directs the Department of Ecology to identify these chemicals and report to the Legislature on policy options for addressing the chemicals by January 1, 2009. The Legislature should have the benefit of this report before the state proceeds to rulemaking to impose additional reporting and testing requirements.

For these reasons, I have vetoed Section 1 and Section 8 of Engrossed Second Substitute House Bill 2647.

Without careful implementation, this bill could adversely affect the availability of safe toys in our state, including important educational toys. To address this concern, I will establish an advisory group to work with the Departments of Ecology and Health to make sure we implement the bill with common sense, and to work on needed legislative fixes for next session. I will ask both large and small toymakers and children's products retailers, children's health experts, and public interest representatives to work together on these tasks, and I will invite state legislators to participate.

Section 2 applies the new standards in this bill to all components found in children's car seats, beginning in July 2009. Limited testing to date shows that children's car seats will meet the standards in the bill, and most seats are made with few metal components. Nonetheless, we must be absolutely certain this bill will not reduce the safety of car seats. I will ask the advisory group to take a close look at this issue and recommend rules and changes in law as needed.

I will ask the group to look at standards for both the outer surface of toys and the inside of toys, and to consider the timelines needed for the industry to implement these new standards. I will ask them to develop recommendations for legislation to ensure safe products in a manner that is practical and achievable for the industry.

Section 3 of the bill could be misinterpreted to prohibit toys with internal electronic components. I believe the bill does not prohibit these internal components, and was not intended to do so. Therefore, I direct the Department of Ecology, working with the advisory group, to conduct expedited rulemaking this year to clarify the effect of the bill accordingly.

Section 4 directs Ecology to develop a list of chemicals with potential adverse effects on children. The language in this section could result in a long list of chemicals, and future reporting requirements beyond those needed to ensure the safety of children's products. The department's fiscal analysis of the bill assumed no more than fifty chemicals would be identified, and the Legislature has funded their work accordingly. I ask the Department to focus on the highest

priority chemicals, considering good science on the effects of chemicals on the health of children, and those chemicals likely to be found in children's products. The Department should rely on safety testing conducted in the European Union and California, to the extent they provide a reasonable assurance of safety, in order to help establish a degree of consistency for the industry.

Section 5 requires manufacturers to report on the chemicals found in their children's products. I have retained this portion of the bill, as a future tool for ensuring the safety of our children, as needed. By my veto of Section 8, as described above, I have removed the bill's 2010 deadline to begin mandatory reporting. This will give us time to review the extent of reporting, consider duplication with other testing currently done by the industry, and determine how to most efficiently implement these new requirements. It will also allow us to determine whether or not proprietary information should be reported and, if so, how we can ensure that protected trade secrets are not disclosed.

With the exception of Section 1 and Section 8, Engrossed Second Substitute House Bill 2647 is approved.

Respectfully submitted,
Christine O. Gregoire
Governor