

**SHB 1294** - H AMD 135

By Representative Springer

ADOPTED 03/06/2013

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 70.240.020 and 2008 c 288 s 3 are each amended to  
4 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34

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

8

9 **Sec. 3.** RCW 70.240.010 and 2008 c 288 s 2 are each amended to  
10 read as follows:

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

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

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

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

22 (c) Sold in any of the following:

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

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

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

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

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

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

5 (d) Sold in any of the following:

6 (i) A vending machine;

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

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

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

14 (i) Toys;

15 (ii) Children's cosmetics;

16 (iii) Children's jewelry;

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

20 (v) Child car seats.

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

22 (i) Batteries;

23 (ii) Slings and catapults;

24 (iii) Sets of darts with metallic points;

25 (iv) Toy steam engines;

26 (v) Bicycles and tricycles;

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

29 (vii) Chemistry sets;

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

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

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

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

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

9 (xiii) Roller skates;

10 (xiv) Scooters;

11 (xv) Model rockets;

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

13 (xvii) Pocket knives and multitools.

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

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

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

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

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

30 (c) Disrupt the endocrine system;

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

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

34 (f) Be very persistent and very bioaccumulative.

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

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

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

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

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

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

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

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

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

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

31

32 Correct the title.

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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