
ENGROSSED SUBSTITUTE HOUSE BILL 1294

State of Washington

63rd Legislature

2013 Regular Session

By House Environment (originally sponsored by Representatives Van De Wege, Hudgins, Pollet, Maxwell, Hunt, Upthegrove, Tharinger, Fey, Farrell, Moscoso, Hunter, Stanford, Reykdal, Fitzgibbon, Bergquist, Tarleton, Goodman, Kagi, Hansen, Jinkins, Habib, Pedersen, Ryu, Lias, Riccelli, Roberts, Morrell, Clibborn, and Ormsby)

READ FIRST TIME 02/18/13.

1 AN ACT Relating to flame retardants; amending RCW 70.240.020 and
2 70.240.010; and adding a new section to chapter 70.240 RCW.

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

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

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

10 (a) Except as provided in subsection (~~(+2)~~) (3) of this section,
11 lead at more than .009 percent by weight (ninety parts per million);

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

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

16 (2) Beginning July 1, 2015, no manufacturer, wholesaler, or
17 retailer may manufacture, knowingly sell, offer for sale, distribute
18 for sale, or distribute for use in this state children's products or

1 residential upholstered furniture, as defined in RCW 70.76.010,
2 containing TDCPP or TCEP in amounts greater than one hundred parts per
3 million in any product component.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (c) Sold in any of the following:

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

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

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

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

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

6 (c) Sized for children and not intended for use by adults; or
7 (d) Sold in any of the following:

8 (i) A vending machine;

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

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

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

16 (i) Toys;

17 (ii) Children's cosmetics;

18 (iii) Children's jewelry;

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

22 (v) Child car seats.

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

24 (i) Batteries;

25 (ii) Slings and catapults;

26 (iii) Sets of darts with metallic points;

27 (iv) Toy steam engines;

28 (v) Bicycles and tricycles;

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

31 (vii) Chemistry sets;

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

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

1 (x) BB guns, pellet guns, and air rifles;
2 (xi) Snow sporting equipment, including skis, poles, boots, snow
3 boards, sleds, and bindings;
4 (xii) Sporting equipment, including, but not limited to bats,
5 balls, gloves, sticks, pucks, and pads;
6 (xiii) Roller skates;
7 (xiv) Scooters;
8 (xv) Model rockets;
9 (xvi) Athletic shoes with cleats or spikes; and
10 (xvii) Pocket knives and multitools.
11 (4) "Cosmetics" includes articles intended to be rubbed, poured,
12 sprinkled, or sprayed on, introduced into, or otherwise applied to the
13 human body or any part thereof for cleansing, beautifying, promoting
14 attractiveness, or altering the appearance, and articles intended for
15 use as a component of such an article. "Cosmetics" does not include
16 soap, dietary supplements, or food and drugs approved by the United
17 States food and drug administration.
18 (5) "Department" means the department of ecology.
19 (6) "High priority chemical" means a chemical identified by a state
20 agency, federal agency, or accredited research university, or other
21 scientific evidence deemed authoritative by the department on the basis
22 of credible scientific evidence as known to do one or more of the
23 following:
24 (a) Harm the normal development of a fetus or child or cause other
25 developmental toxicity;
26 (b) Cause cancer, genetic damage, or reproductive harm;
27 (c) Disrupt the endocrine system;
28 (d) Damage the nervous system, immune system, or organs or cause
29 other systemic toxicity;
30 (e) Be persistent, bioaccumulative, and toxic; or
31 (f) Be very persistent and very bioaccumulative.
32 (7) "Manufacturer" includes any person, firm, association,
33 partnership, corporation, governmental entity, organization, or joint
34 venture that produces a children's product or an importer or domestic
35 distributor of a children's product. For the purposes of this
36 subsection, "importer" means the owner of the children's product.
37 (8) "Phthalates" means di-(2-ethylhexyl) phthalate (DEHP), dibutyl

1 phthalate (DBP), benzyl butyl phthalate (BBP), diisonoyl phthalate
2 (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP).

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

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

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

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

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

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

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

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

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