
Health Care & Wellness Committee

HB 2545

Brief Description: Reducing public health threats that particularly impact highly exposed populations, including children and firefighters, by establishing a process for the department of health to restrict the use of toxic flame retardant chemicals in certain types of consumer products.

Sponsors: Representatives Van De Wege, Taylor, DeBolt, Cody, Rodne, Kochmar, Stambaugh, Riccelli, Johnson, Jinkins, Kagi, Harris, Smith, Stokesbary, Caldier, Zeiger, Tharinger, Hickel, Fitzgibbon, Muri, Reykdal, Frame, Rossetti, S. Hunt, Hudgins, McBride, Ormsby, Appleton, Walkinshaw, Senn, Ryu, Gregerson, Sells, Harmsworth, Tarleton, Pollet, Bergquist, Stanford and Scott.

Brief Summary of Bill

- Prohibits the manufacture, sale, or distribution of children's products or residential upholstered furniture containing specified flame retardants in amounts greater than 1,000 parts per million.
- Allows the Secretary of the Department of Health (DOH) to prohibit the manufacture, sale, or distribution of children's products or residential upholstered furniture containing a flame retardant in amounts greater than 1,000 parts per million that meets the criteria of a high priority chemical of high concern for children.
- Requires manufacturers of a restricted product to notify sellers of the restricted product and to recall the restricted product.

Hearing Date: 1/27/16

Staff: Ariele Landstrom (786-7190).

Background:

A manufacturer, wholesaler, or retailer may not manufacture, sell or distribute a children's product or product component that contains the following:

- Lead at more than .009 percent by weight (90 parts per million);

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.

- Cadmium at more than .004 percent by weight (forty parts per million);
- Phthalates, individually or in combination, at more than .10 percent by weight (1,000 parts per million).

The Department of Ecology (Ecology), in consultation with the DOH, has developed a list of high priority chemicals of high concern for children (CHCC). Among the chemicals on the CHCC list are the following flame retardants:

- TDCPP (tris (1, 3-dichloro-2-propyl) phosphate);
- TCEP (tris (2-chloroethyl) phosphate);
- decabromodiphenyl ether;
- HBCD (hexabromocyclododecane); and
- additive TBBPA (tetrabromobisphenol A).

Manufacturers must provide notice to Ecology that the manufacturer's product contains a chemical on the CHCC list and Ecology has enforcement authority if manufacturers fail to provide notice.

At the federal level, the United States Consumer Product Safety Commission (CPSC) sets both mandatory and voluntary safety standards for consumer products, including fire safety standards. Under the federal Flammable Fabrics Act, the CPSC has used its regulatory authority to establish mandatory flammability standards for furniture and for many types of children's products. At the state level, the State Building Code Council has adopted an amended version of the International Fire Code, which includes flammability standards for upholstered furniture in new and existing buildings.

2014 Ecology Flame Retardant Report.

In the 2014 Supplemental Operating Budget the Legislature directed Ecology to test for the presence of flame retardants in children's products and furniture and to analyze TBBPA and antimony compounds used as flame retardants. In January 2015 the Department submitted a report to the Legislature that recommended the restriction of 10 flame retardants in children's products and furniture, including TCEP, TDCPP, HBCD, and TBBPA.

Summary of Bill:

Prohibition on certain chemicals.

Beginning July 1, 2017, no manufacturer, wholesale, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in the state any children's products or residential upholstered furniture containing any of the following flame retardants in amounts greater than one thousand parts per million in any product component:

- TDCPP;
- TCEP;
- decabromodiphenyl ether;
- HBCD; and
- additive TBBPA.

DOH Rulemaking.

The Secretary of the Department of Health (DOH) may, by rule, prohibit the manufacture, sale, or distribution in this state of children's products or residential upholstered furniture containing a

flame retardant in amounts greater than 1,000 parts per million that meets the criteria of a high priority chemical of high concern for children. The rule must be adopted prior to December 1st in any year and may not take effect before the end of the regular legislative session in the next year.

Before the Secretary of the DOH may adopt a rule, the DOH must submit a report to the Legislature that addresses:

- Whether children or vulnerable populations are likely to be exposed to the chemical directly or indirectly from its use in products;
- Toxicity data to evaluate the health concerns for children or vulnerable populations;
- Whether a safer alternative has been identified.

Any person or entity violating these rules is subject to a civil penalty not to exceed \$5,000 for each violation for a first offense or \$10,000 for each repeat offense.

The rulemaking authority of the DOH expires July 1, 2022.

Penalties.

A manufacturer of a children's product or residential upholstered furniture that is prohibited, either in statute or rule, must notify sellers of the restricted product no less than 90 days before the effective date of the restriction. A manufacturer that produces, sells, or distributes a restricted product must recall the product and reimburse the retailer or any other purchaser for the product. A manufacturer of a restricted product in violation of any of the provisions, in statute or rule, restricting the sale of products with flame retardants is subject to a civil penalty not to exceed \$5,000 for each violation for a first offense or \$10,000 for each repeat offense.

Appropriation: None.

Fiscal Note: Requested on January 20, 2016.

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