

# FINAL BILL REPORT

## ESHB 2545

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Synopsis as Enacted

**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:** House Committee on Health Care & Wellness (originally sponsored by 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).

**House Committee on Health Care & Wellness**  
**House Committee on Appropriations**  
**Senate Committee on Health Care**  
**Senate Committee on Ways & Means**

### **Background:**

#### Restricted Products.

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 0.009 percent by weight (90 ppm);
- cadmium at more than 0.004 percent by weight (40 ppm); and
- phthalates, individually or in combination, at more than 0.10 percent by weight (1,000 ppm).

#### Chemicals of High Concern for Children List.

The Department of Ecology (Ecology), in consultation with the Department of Health (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

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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.*

- additive TBBPA (tetrabromobisphenol A).

A manufacturer must provide notice to Ecology that the manufacturer's product contains a chemical on the CHCC list and is subject to a civil penalty if the manufacturer fails to provide notice.

#### Fire Safety Standards.

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. 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 Ecology submitted a report that recommended the restriction of 10 flame retardants in children's products and furniture.

#### **Summary:**

##### Prohibition on Certain Flame Retardant Chemicals.

Beginning July 1, 2017, no manufacturer, wholesaler, 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 (tris (1, 3-dichloro-2-propyl) phosphate);
- TCEP (tris (2-chloroethyl) phosphate);
- decabromodiphenyl ether;
- HBCD (hexabromocyclododecane); and
- additive TBBPA (tetrabromobisphenol A).

##### Recommendations on Other Flame Retardant Chemicals.

Ecology must consider whether the following flame retardants meet the criteria of a CHCC:

- IPTPP (isopropylated triphenyl phosphate);
- TBB ((2-ethylhexyl)-2,3,4,5-tetrabromobenzoate);
- TBPH (bis (2-ethylhexyl)-2,3,4,5-tetrabromophthalate);
- TCPP (tris (1-chloro-2-propyl) phosphate);
- TPP (triphenyl phosphate); and
- V6 (bis(chloromethyl) propane-1,3-diyltetrakis (2-chloroethyl) bisphosphate).

Within one year of Ecology adopting a rule that identifies a flame retardant as a CHCC, the DOH, in consultation with Ecology, must create a stakeholder advisory committee for the rule development to provide early stakeholder input, expertise, and additional information to develop policy options and recommendations for reducing exposure, designating and developing safer substitutes, and restricting or prohibiting the use of the flame retardant

chemicals. The DOH must submit the recommendations to the Legislature. If the DOH, in consultation with Ecology, determines that a flame retardant chemical should be restricted or prohibited from use in children's products, residential upholstered furniture, or other commercial products or processes, the DOH must include citations of the peer-reviewed science and other sources of information reviewed and relied upon in support of the recommendation to restrict or prohibit the flame retardant chemical.

Exemptions.

The sale or purchase of any previously owned products containing a restricted chemical by a nonprofit organization is exempt from provisions restricting or prohibiting the sale or distribution of products with certain chemicals.

**Votes on Final Passage:**

House	76	21	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

**Effective:** June 9, 2016