S-3715.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5931**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 68th Legislature 2024 Regular Session**

**By** Senators Salomon, Kauffman, Billig, Frame, Lovelett, Pedersen, Shewmake, and Wellman

AN ACT Relating to expediting the safer products for Washington process regarding motorized vehicle tires containing 6PPD; amending RCW 70A.350.010, 70A.350.030, and 70A.350.050; adding a new section to chapter 70A.350 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  (1) The legislature finds that 6PPD is a chemical commonly used in motor vehicle tires to keep them flexible and prevent them from degrading quickly. 6PPD works by moving to the surface of the tire and forming a film that protects the tire. As the film breaks down, it produces 6PPD-quinone. When it rains, tire particles containing 6PPD-quinone are washed into streams, rivers, and other water bodies through stormwater runoff.

(2) The legislature also finds that 6PPD-quinone is directly linked to urban runoff mortality syndrome, a condition where Coho salmon die prior to spawning. 6PPD-quinone is known to be toxic to aquatic species and is the primary causal toxicant for Coho salmon. In June 2023, the department of ecology identified 6PPD as a draft priority chemical under safer products for Washington, cycle 2. Additionally, 6PPD has been identified as a hazardous substance under the model toxics control act and as a chemical of concern for sensitive populations and sensitive species.

(3) The legislature finds it important to reduce sources and uses of 6PPD in Washington to protect aquatic life, particularly salmon. Since 6PPD is ubiquitous in motorized vehicle tires, the legislature intends to expedite the safer products for Washington process regarding such tires containing 6PPD.

**Sec.**  RCW 70A.350.010 and 2020 c 20 s 1451 are each amended to read as follows:

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

(1) "6PPD" means the chemical compound N-(1,3-dimethylbutyl)-N'-phenyl-p-phenylenediamine.

(2) "Consumer product" means any item, including any component parts and packaging, sold for residential or commercial use.

((~~(2)~~)) (3) "Department" means the department of ecology.

((~~(3)~~)) (4) "Director" means the director of the department.

((~~(4)~~)) (5) "Electronic product" includes personal computers, audio and video equipment, calculators, wireless phones, game consoles, and handheld devices incorporating a video screen that are used to access interactive software, and the peripherals associated with such products.

((~~(5)~~)) (6) "Inaccessible electronic component" means a part or component of an electronic product that is located inside and entirely enclosed within another material and is not capable of coming out of the product or being accessed during any reasonably foreseeable use or abuse of the product.

((~~(6)~~)) (7) "Manufacturer" means any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a product or is an importer or domestic distributor of a product sold or offered for sale in or into the state.

((~~(7)~~)) (8) "Organohalogen" means a class of chemicals that includes any chemical containing one or more halogen elements bonded to carbon.

((~~(8)~~)) (9) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS chemicals" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

((~~(9)~~)) (10) "Phenolic compounds" means alkylphenol ethoxylates and bisphenols.

((~~(10)~~)) (11) "Phthalates" means synthetic chemical esters of phthalic acid.

((~~(11)~~)) (12) "Polychlorinated biphenyls" or "PCBs" means chemical forms that consist of two benzene rings joined together and containing one to ten chlorine atoms attached to the benzene rings.

((~~(12)~~)) (13) "Priority chemical" means a chemical or chemical class used as, used in, or put in a consumer product including:

(a) Perfluoroalkyl and polyfluoroalkyl substances;

(b) Phthalates;

(c) Organohalogen flame retardants;

(d) Flame retardants, as identified by the department under chapter 70A.430 RCW;

(e) Phenolic compounds;

(f) Polychlorinated biphenyls; ((~~or~~))

(g) 6PPD; or

(h) A chemical identified by the department as a priority chemical under RCW 70A.350.020.

((~~(13)~~)) (14) "Safer alternative" means an alternative that is less hazardous to humans or the environment than the existing chemical or chemical process. A safer alternative to a particular chemical may include a chemical substitute or a change in materials or design that eliminates the need for a chemical alternative.

((~~(14)~~)) (15) "Sensitive population" means a category of people that is identified by the department that may be or is disproportionately or more severely affected by priority chemicals, such as:

(a) Men and women of childbearing age;

(b) Infants and children;

(c) Pregnant women;

(d) Communities that are highly impacted by toxic chemicals;

(e) Persons with occupational exposure; and

(f) The elderly.

((~~(15)~~)) (16) "Sensitive species" means a species or grouping of animals that is identified by the department that may be or is disproportionately or more severely affected by priority chemicals, such as:

(a) Southern resident killer whales;

(b) Salmon; and

(c) Forage fish.

**Sec.**  RCW 70A.350.030 and 2022 c 264 s 3 are each amended to read as follows:

(1) Every five years, and consistent with the timeline established in RCW 70A.350.050, the department, in consultation with the department of health, shall identify priority consumer products that are a significant source of or use of priority chemicals. The department must submit a report to the appropriate committees of the legislature at the time that it identifies a priority consumer product.

(2) When identifying priority consumer products under this section, the department must consider, at a minimum, the following criteria:

(a) The estimated volume of a priority chemical or priority chemicals added to, used in, or present in the consumer product;

(b) The estimated volume or number of units of the consumer product sold or present in the state;

(c) The potential for exposure to priority chemicals by sensitive populations or sensitive species when the consumer product is used, disposed of, or has decomposed;

(d) The potential for priority chemicals to be found in the outdoor environment, with priority given to surface water, groundwater, marine waters, sediments, and other ecologically sensitive areas, when the consumer product is used, disposed of, or has decomposed;

(e) If another state or nation has identified or taken regulatory action to restrict or otherwise regulate the priority chemical in the consumer product;

(f) The availability and feasibility of safer alternatives; and

(g) Whether the department has already identified the consumer product in a chemical action plan completed under chapter 70A.300 RCW as a source of a priority chemical or other reports or information gathered under chapter 70A.430, 70A.405, 70A.222, 70A.335, 70A.340, 70A.230, or 70A.400 RCW.

(3) The department is not required to give equal weight to each of the criteria in subsection (2)(a) through (g) of this section when identifying priority consumer products that use or are a significant source of priority chemicals.

(4) To assist with identifying priority consumer products under this section and making determinations as authorized under RCW 70A.350.040, the department may order a manufacturer to submit a notice to the department that contains the information specified in RCW 70A.430.060 (1) through (6) or other information relevant to subsection (2)(a) through (d) of this section. The manufacturer must provide the notice to the department no later than six months after receipt of such a demand by the department.

(5)(a) Except as provided in section 5 of this act and (b) of this subsection, the department may not identify the following as priority consumer products under this section:

(i) Plastic shipping pallets manufactured prior to 2012;

(ii) Food or beverages;

(iii) Tobacco products;

(iv) Drug or biological products regulated by the United States food and drug administration;

(v) Finished products certified or regulated by the federal aviation administration or the department of defense, or both, when used in a manner that was certified or regulated by such agencies, including parts, materials, and processes when used to manufacture or maintain such regulated or certified finished products;

(vi) Motorized vehicles, including on and off-highway vehicles, such as all-terrain vehicles, motorcycles, side-by-side vehicles, farm equipment, and personal assistive mobility devices; and

(vii) Chemical products used to produce an agricultural commodity, as defined in RCW 17.21.020.

(b) The department may identify the packaging of products listed in (a) of this subsection as priority consumer products.

(6) For an electronic product identified by the department as a priority consumer product under this section, the department may not make a regulatory determination under RCW 70A.350.040 to restrict or require the disclosure of a priority chemical in an inaccessible electronic component of the electronic product.

**Sec.**  RCW 70A.350.050 and 2022 c 264 s 2 are each amended to read as follows:

(1)(a) By June 1, 2020, and consistent with RCW 70A.350.030, the department shall identify priority consumer products that are a significant source of or use of priority chemicals specified in RCW 70A.350.010((~~(12)~~)) (13) (a) through (f).

(b) By June 1, 2022, and consistent with RCW 70A.350.040, the department must determine regulatory actions regarding the priority chemicals and priority consumer products identified in (a) of this subsection. The deadline of June 1, 2022, does not apply to the priority consumer products identified in RCW 70A.350.090.

(c) By June 1, 2023, the department must adopt rules to implement regulatory actions determined under (b) of this subsection.

(2)(a) By June 1, 2024, and every five years thereafter, the department shall select at least five priority chemicals specified in RCW 70A.350.010((~~(12)~~)) (13)(a) through ((~~(g)~~)) (h) that are identified consistent with RCW 70A.350.020.

(b) By June 1, 2025, and every five years thereafter, the department must identify priority consumer products that contain any new priority chemicals after notifying the appropriate committees of the legislature, consistent with RCW 70A.350.030.

(c) By June 1, 2027, and every five years thereafter, the department must determine regulatory actions for any priority chemicals in priority consumer products identified under (b) of this subsection, consistent with RCW 70A.350.040.

(d) By June 1, 2028, and every five years thereafter, the department must adopt rules to implement regulatory actions identified under (c) of this subsection.

(3)(a) The designation of priority chemicals by the department does not take effect until the adjournment of the regular legislative session immediately following the identification of chemicals, in order to allow an opportunity for the legislature to add to, limit, or otherwise amend the list of priority chemicals to be considered by the department.

(b) The designation of priority consumer products by the department does not take effect until the adjournment of the regular legislative session immediately following the identification of priority consumer products, in order to allow an opportunity for the legislature to add to, limit, or otherwise amend the list of priority consumer products to be considered by the department.

(c) The determination of regulatory actions by the department does not take effect until the adjournment of the regular legislative session immediately following the determination by the department, in order to allow an opportunity for the legislature to add to, limit, or otherwise amend the regulatory determinations by the department.

(d) Nothing in this subsection (3) limits the authority of the department to:

(i) Begin to identify priority consumer products for a priority chemical prior to the effective date of the designation of a priority chemical;

(ii) Begin to consider possible regulatory actions prior to the effective date of the designation of a priority consumer product; or

(iii) Initiate a rule-making process prior to the effective date of a determination of a regulatory action.

(4)(a) When identifying priority chemicals and priority consumer products under this chapter, the department must notify the public of the selection, including the identification of the peer-reviewed science and other sources of information that the department relied upon, the basis for the selection, and a draft schedule for making determinations. The notice must be published in the Washington State Register. The department shall provide the public with an opportunity for review and comment on the regulatory determinations.

(b)(i) By June 1, 2020, the department must create a stakeholder advisory process to provide expertise, input, and a review of the department's rationale for identifying priority chemicals and priority consumer products and proposed regulatory determinations. The input received from a stakeholder process must be considered and addressed when adopting rules.

(ii) The stakeholder process must include, but is not limited to, representatives from: Large and small business sectors; community, environmental, and public health advocacy groups; local governments; affected and interested businesses; an expert in scientific data analysis; and public health agencies.

NEW SECTION. **Sec.**  A new section is added to chapter 70A.350 RCW to read as follows:

(1) For the purposes of the regulatory process established in this chapter, a motorized vehicle tire containing 6PPD is a priority consumer product. For such products, the department must determine regulatory actions and adopt rules to implement those regulatory determinations consistent with the process established in RCW 70A.350.040 but subject to the following timeline:

(a) By June 1, 2025, the department must determine an initial set of regulatory actions under this chapter; and

(b) By June 1, 2026, the department must adopt rules to implement the initial set of regulatory actions determined under (a) of this subsection.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Motorized vehicle tire" includes, without limitation:

(i) A tire intended for use on light duty vehicles, motorcycles, motor homes, medium duty and heavy duty trucks, buses, and trailers; and

(ii) Tire tread material.

(b) "Motorized vehicle tire" does not include:

(i) A tire imported into or sold in Washington as a component of a motorized vehicle; or

(ii) The used components of a retreaded tire.

(c) The department may further define "motorized vehicle tire" by rule.

**--- END ---**